

IN THE MATTER OF THE
THE APPLICATION OF
BARBARA A. GRIFFITH
FOR A SPECIAL VARIANCE ON
PROPERTY LOCATED ON THE NORTH-
EAST CORNER HARFORD ROAD AND
RELOCATED EAST AVENUE
(9213 HARFORD ROAD, PHASE IV,
PARKING/STORAGE LOT)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-206-SAA

* * * * *

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner denying the requested variance that would permit an auto storage lot on the rear of the subject site. The testimony and evidence taken in this case is applicable only to Case No. 92-206-SAA, no other appeals being taken. Robert W. Cannon, Esquire, appeared on behalf of Petitioner in this case; Bernard Penner, Esquire, appeared on behalf of Protestants; and Peter Max Zimmerman, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel.

Testifying for the Petitioner in this case were James Abbott, an executive with the Griffith organization; Clyde Hinkle, a Professional Engineer, who drew the plat entered as Petitioner's Exhibit 2; and Wes Guckert, Traffic Engineer. Appearing and testifying on behalf of the Protestants were Dennis Wertz, from the Baltimore County Office of Planning and Zoning, and nearby residents Jackie Magee of 3112 East Avenue; Daryl Corona of 3106 East Avenue; and Jerry Miller of 3013 First Avenue, Vice President of the Thornwood Community Association.

From the testimony and evidence received, the Board finds the following facts:

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The property in question has been owned by the Griffith's for 20 plus years, is zoned commercial, and is presently undeveloped, being mostly wooded, and the Petitioner intends for access to the proposed storage lot for new vehicles to be only internal with no access directly to adjacent roadways.

The Petitioner proposes to provide parking spaces for 179 new vehicles to be stored on this lot and offered for sale and to prohibit delivery of vehicles between the hours of 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.

The site is 60 to 70 percent wooded and has two streams. The flood plan, wetlands and steep slope areas on-site have received approval from Baltimore County's Department of Environmental Protection and Resource Management (DEPRM), and the proposed landscaping has been approved by the County Review Group (CRG). The Petitioner proposes no building of any kind on the proposed storage lot.

There is no solid regulation that specifically computes the number of trips to be generated by the proposed use. The site is located in a deficient traffic shed, and the nearest major intersection of Joppa and Harford Roads is rated "F". There is no additional capacity in this intersection for an expansion of the property's use. The Baltimore County Bureau of Traffic Engineering has said that no use whatsoever should be permitted in this traffic shed. The business operations of the auto dealership have increased the use of East Avenue, there are no sidewalks, and the agency's autos are parked on the street.

Since the traffic to be generated by the proposed use is not

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specifically computed in any of the regulations, the Board will draw its own conclusions from the proposal. It is uncontradicted that the parcel in its present wooded condition does not generate any traffic. If the variance is granted to permit the parcel's use as a storage lot for 179 vehicles, certainly some traffic must be generated, if only to bring the automobiles to be stored onto the property and to remove same from the property.

Section 4A02.4F.1 grants the Zoning Commissioner the right to grant a petition for a special variance only to an extent that it will not violate the provision's purpose. Section 4A02, titled "Basic Services Maps," outlines the Council's objective (in Section 4A02.1 titled "Purpose and Intent") in adopting regulations that otherwise permissible development should not be allowed when existing public facilities are inadequate.

"The county council finds that important public facilities in certain predominantly urban areas of the county are inadequate to serve all of the development that would be permitted under the regulations of the zones or commercial districts within which those areas lie. Basic service maps are hereby established to regulate nonindustrial development in those underserved areas to a degree commensurate with the availability of these facilities...." [4A02.1, BCZR]

"Basic services maps are not intended to permanently establish either areas of service deficiencies or areas of service availability and adequacy. Such maps will be reviewed annually, as it is the intent of the county council that existing service deficiencies will be corrected in accordance with the master plan and capital improvements program...." [4A02.3F, BCZR]

The Board concludes, as a matter of fact, that the regulations intend to limit or to curtail development where existing public transportation roadwork is failing.

In this case, the subject property lies in a predominantly urban area and the nearest major intersection, which is Joppa Road

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and Harford Road, is already an "F" intersection, and as such indicates its inability to support the existing traffic needs, much less any additional traffic generated by this proposal. The fact that no building of any kind is proposed on this site does not alter the fact that its use as a storage lot for 179 vehicles must increase the traffic at this intersection to some degree.

After a study of the pertinent zoning regulations and the testimony and evidence presented to the Board and consideration thereof, the Board concludes, as a matter of law, that the proposed use violates the purpose of Section 4A02. Therefore, it is the opinion of this Board that the relief requested in Case No. 92-206-SAA should be denied and will so order.

ORDER

IT IS THEREFORE this 9th day of December, 1992 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Variance to permit an auto storage lot on the rear of the subject site be and is hereby DENIED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William Clark
C. William Clark

Judson H. Lipowitz
Judson H. Lipowitz

0081:10/07/92(3)
CKT32(37798)

Case Number: * HEARING BEFORE
92-206-SAA * THE COUNTY BOARD OF APPEALS
Barbara Griffith * OF BALTIMORE COUNTY
PETITIONER AND APPELLANT * October 8, 1992
* * * * *

INTRODUCTION

Barbara Griffith owns property in Baltimore County which is intended to be used for new vehicle storage. The property has been zoned to accommodate this purpose for approximately 20 years. The property is also in proximity to the failing intersection of Harford and Joppa Roads. County Review Group ("CRG") hearings for the development of a vehicle storage lot on this property were held on March 14, 1991 and on September 12, 1991. The plan was approved by the CRG on September 12, 1991.

A Petition was filed for a Special Variance, together with a Petition for a Zoning Variance in Case No. 92-206-SAA. For purposes of this appeal, the Petitioner is abandoning the Petition for the Zoning Variance and is limiting the scope of the appeal to an appeal from the decision of the Baltimore County Zoning Commissioner denying the Petition for Special Variance. In an Order dated March 31, 1992, the Zoning Commissioner denied the Special Variance that had been requested from § 4A02.4D of Article 4A of the Baltimore County Zoning Regulations to permit the development of the vehicle storage lot. This appeal has been taken for the purpose of

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requesting the Board to reverse the Order of the Zoning Commissioner to the extent that it denied the requested relief for the Special Variance.

STATEMENT OF FACTS AND LAW PRESENTED

The Growth Management Regulations contained in Article 4A of the Baltimore County Zoning Regulations state that the Director of the Office of Planning and Zoning must issue a Reserve Capacity Use Certificate in accordance with §4A02 of the Baltimore County Zoning Regulations before final subdivision approval may be granted or a building permit may be issued. Section 4A02.4.D of Article 4A, Transportation, lists a formula to be used for the determination of reserve capacity. That formula includes the projected number of daily peak-hour vehicle trips to be generated by any proposed non-industrial development.

Subsection 3, Maximum Level of Non-Industrial Development, states that the level of the additional non-industrial development proposed may not exceed that which would generate the number of daily peak-hour vehicle trips equal to the reserve capacity of that mapped area. The number of daily peak-hour vehicle trips a development will generate is determined based on the following enumerated non-industrial developments: (i) dwelling units to be used for the elderly, (ii) dwelling units to be used other than for the elderly, (iii) buildings to be devoted to retail use, (iv) buildings to be devoted to office use and (v) buildings to be devoted to

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uses other than retail or office uses. Thus, there are estimated peak-hour vehicle trips for four (4) specific types of non-industrial developments and a catch-all for "buildings" which do not fit into one of the four specific categories covered under the Section. The number of daily peak-hour vehicle trips for each type of non-industrial development covered under this section is an essential part of the formula required to determine reserve capacity.

The development of a vehicle storage lot by the Griffith's on this property will not result in a dwelling unit or a building of any type. See Hurst v. V&M of Virginia, 293 Md. 575, 580-581; Brown v. State, 39 Md. App. 497, 501. A building is defined by the Baltimore County Zoning Regulations as "a structure enclosed within exterior walls or fire walls for the shelter, support, or enclosure of persons, animals, or property of any kind." While the vehicle storage lot will be enclosed by a fence, a fence is not a wall within the meaning of the zoning regulations, and a fenced lot does not create a building under Maryland law. Himmel v. Hendler, 161 Md. 181, 189.

The statutory determination for calculating additional vehicle trips, which is set forth in Section 4A02.4.D.3, does not apply to the Petitioner's proposed development. The standard used in the formula requires a building or part of a building devoted to dwelling, retail, office or other uses. There is no authority to calculate vehicle trips without dwelling units or buildings. Such

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calculations would be purely speculative and not authorized by law.

The zoning ordinance, being in derogation of the common law, should be strictly construed to permit the property owner to use her property for a given activity, unless it is clearly excluded. Landay v. Zoning Appeals Board, 173 Md. 460, 466; Gino's v. Baltimore City, 250 Md. 621, 642-643. Consequently, the term "non-industrial development" as used to determine additional vehicle trips and thus reserve capacity, must be limited to the types of development regulated in the regulations. If a Reserve Capacity Use Certificate must be issued before Petitioner can use her property as a vehicle storage lot, the Zoning Commissioner and the Office of Planning and Zoning, rather than the legislature, will be expanding the applicability of Section 4A02.4.D.

CONCLUSION

Section 4A02.4.F.1 specifically states that the Zoning Commissioner may, after a public hearing, grant a petition for a special variance from a provision of the subsection pursuant to a finding that the standard is not relevant to the development proposal. Thus, the legislature acknowledged in the regulations themselves that there would be situations where the standards provided were not applicable. Clearly the standards given in this subsection are not relevant to the Petitioner's development proposal. In addition, no prior application would be adversely affected by

IN RE: PETITION FOR SPECIAL VARIANCE * BEFORE THE
NEC Harford Rd. and relocated * ZONING COMMISSIONER
East Ave., 9213 Harford Road *
Phase IV, Parking/Storage Lot * OF BALTIMORE COUNTY
11th Election District *
6th Councilmanic District *
Barbara A. Griffith * Case Nos. 92-206-SAA
Petitioner * and 92-207A
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a consolidated case; combining the Petition for Special Variance and Petition for Zoning Variance filed in case No. 92-206 SAA with a Petition for Zoning Variance filed in case No. 92-207-A. Both cases involve a common property owned by Barbara A. Griffith. The subject property is located near the intersection of Harford Road and relocated East Avenue in the Thornwood Subdivision of Baltimore County. The site is the long time home of Griffith Auto Dealership. The property is near to, and visible from, the Baltimore Beltway (1695).

As indicated above, the cases are consolidated and involve a common property. The property is approximately 11.50 acres in area and is split zoned B.M.-C.S.2, B.M. and D.R.5.5. The site is improved with a new car sales building, a used car center building, a parts and service building, a body and parts shop, and several parking lots to support these structures. Two portions of the property are relevant to this case. They are a body shop-parking lot and proposed vehicle storage area. The body shop and lot for same are located to the rear of the property as one enters from Harford Road. The proposed Phase III lot is to the extreme rear of the property.

As to the Petition for Zoning Variance under case No. 92-207A, the Petitioner seeks relief as it relates to parking requirements on the body shop parking lot. Specifically, the Petitioner seeks a variance from Sections 409.8.A.2, 409.8.A.5 and 409.8.A.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an exemption from the requirements that the body shop parking lot be durable and dustless; that a backup area be shown; and that all parking spaces must be striped. As noted, these variances all relate to the existing body shop parking lot, which is 1.99 acres in size.

As to case No. 92-206-SAA, both a special variance and a variance are requested. The variance seeks the identical relief as is requested for the body shop parking lot. The special variance seeks an exception from the requirements within Section 4A02.4.D. of the B.C.Z.R., which govern development as it impacts certain public facilities.

The matter was scheduled for public hearing and substantial testimony was presented, both for and against the proposed variances. The Petitioner was represented at the hearing by Robert W. Cannon and the Protestants, which generally consisted of those residents of the Thornwood Community Association, were represented by Bernard Penner. Numerous exhibits were presented. These included Petitioner's Exhibit No. 2, the plan to accompany the Petitions which clearly depicts the relief that is requested.

Addressing, first, the Petition for Zoning Variance arising out of case No. 92-207A, Mr. James Abbott, the Parts Service Manager at the Griffith Dealership, testified that the body shop has been in its present location since 1979. He indicated that the parking area, which adjoins same and is the subject of the requested variance, is completely fenced and access thereto is through a controlled gate. Further, he testified

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By M. Hark

that there was no customer parking allowed within the body shop lot in that it was restricted to employees. Mr. Abbott discussed each of the three (3) variances requested for the body shop lot in detail. As to the variance from Section 409.8.A.2, he opined that a crushed stone surface was preferable to a durable macadam surface because of drainage concerns. Specifically, he noted that the property slopes away from the body shop location and that an impermeable surface might cause drainage problems. His concern is echoed by the Zoning Advisory Committee comment received from the Department of Environmental Protection and Resource Management (DEPRM). That office also recommends approval of a crusher run "crushed stone" surface for the body shop parking area. Thus, in view of Mr. Abbott's testimony and the support offered by DEPRM, I am persuaded that the variance to the durable and dustless surface requirement should be granted.

As to the variances from Sections 409.8.A.5 and 409.8.A.6, Mr. Abbott testified that strict compliance to those regulations was not necessary. He noted that the subject parking area is restricted so that customers cannot park within that location and that same is used by employees for storage purposes. Therefore, there is no real need for striping and a maneuvering area because the employees prefer an unrestricted area to move and park cars as the needs of their business require. Again, Mr. Abbott's testimony is well taken in this regard and completely logical. There can be no doubt that the requirements set forth in Sections 409.8.A.5 and 409.8.A.6 were adopted so as to provide uniformity in public parking areas. However, in that the subject lot is not a public parking area, such compliance is unnecessary. To require the Petitioner to strictly adhere to these requirements would unduly restrict the nature of his business operation and constitute real practical difficulty.

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Turning to the relief requested in case No. 92-206-SAA, it is apparent that the special variance be considered first, for only, if it is granted, will the zoning variance need be considered. It is clear that the community association's opposition centers primarily against the special variance. As the plat to accompany the Petition indicates, the Griffith property is a narrow, but deep, lot which fronts Harford Road. The rear of the lot is presently unimproved and heavily wooded. It is transected by 2 streams. Further, the rear portion, identified as Phase IV on the plan, is adjacent to the residential community known as Thornwood. The community association, for obvious reasons, prefers that the Phase IV lot be left in its virgin condition. Although the community's desires are well understood, it must be noted that they cannot form the basis of my decision. That is, any property owner is entitled to develop his land as he desires, so long as said development is in conformance with the development and zoning regulations. The community's desire to retain the pleasing esthetic appearance of this section of the property is not germane to the issue presented.

As to the proposed Phase IV lot construction, significant testimony was offered by Mr. Abbott, as well as Larry Caulk, Vice President of the Griffith Dealership. Also testifying on behalf of the Petitioner was Clyde Hinkle from the engineering firm of Bafitis and Associates, Inc., who prepared Petitioner's Exhibit No. 2. Other expert testimony was presented by the Petitioner, including that of Wes Guckert of The Traffic Group, Inc., a traffic engineer.

As to Mr. Abbott and Mr. Caulk, they testified about the needs of the business as contemplated within its proposed expansion. It is proposed that the Phase IV area be converted to a parking area for vehicle stor-

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age. The vehicle storage area would permit 179 cars to be stored at this portion of the site. The witnesses from Griffith testified that an increased storage area was needed in order to support the retail car sales business maintained by the property owner.

As to the expert witnesses, namely, Mr. Hinkle and Mr. Guckert, much of their testimony surrounded the growth management regulations found within Article 4A of the B.C.Z.R. Specifically, they discussed that portion of those regulations found within Section 4A02.4.D. of Article 4A, which addresses the restriction of development near a street system which is at, or over, capacity. To paraphrase, the regulations delineate certain requirements for development consistent with existing traffic conditions in the locale. The regulations specifically provide that development is precluded near an over capacity intersection. In the instant case, it is uncontradicted that the site is located within close proximity of the failing (over capacity) intersection at Harford and Joppa Roads. Thus in order to build, as contemplated, the Petitioner needs either a special variance or a determination that the requirements of Section 4A02.4.D. are inapplicable to this development. Simply stated, the Petitioner requests that I hold that the proposed construction of the Phase IV lot will not adversely impact the already existing failing intersection at Harford and Joppa Roads. If I so find, the construction of the Phase IV lot may be permitted.

Mr. Guckert's testimony centered upon this issue. He noted that the proposed construction was that of a parking lot and that no building or structure was planned. He further addressed the standards enunciated under Section 4A02.4.D.3(a) which are used to determine the additional vehicle trips which will be generated based upon a given use. For exam-

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ple, for every 100 dwelling units, other than for the elderly, an additional 85 peak hour vehicle trips daily are expected to be generated. For a retail use, an additional 14.70 peak hour vehicle trips are expected to be generated for every 1,000 square feet of gross floor area of the retail facility. As Mr. Guckert noted, there is no standard for a vehicle storage lot. Additionally, he noted the definition of the word "building" within Section 101 of the B.C.Z.R. and its application to the growth management regulations. Therein, a building is defined as "a structure enclosed within exterior walls or fire walls for the shelter, support or enclosure of persons, animals or property of any kind." Since there will be no building, as defined, in the proposed Phase IV construction, Mr. Guckert concluded that Section 4A02.4.D. of the B.C.Z.R. is inapplicable to the proposed expansion. Moreover, even if applicable, he opined that a variance to same should be granted under the purview of Section 4A02.4.F. of the regulations. That section allows a special variance to be granted upon the finding that the demand or impact of the development will be less than assumed by the district standard, or the standard is not relevant to the specific proposal; and that the granting of the Petition will not adversely affect the person whose application was filed prior to the Petitioner's application.

In opposition to Mr. Guckert's opinion, and those of the other Petitioner's witnesses, numerous witnesses testified. These included representatives of the legislative team which represents this district in Annapolis. Their testimony can be summarized, as follows:

Alfred Redmer, a business owner and delegate, believes that the proposed expansion in Phase IV would adversely affect the locale. He fears increased traffic, noise and dust.

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Senator Thomas L. Bromwell from this district also testified. He discussed the already high level of traffic on Harford Road and that additional vehicular traffic cannot be supported by the existing road network.

Delegate James Portz also testified. He noted that unlike other retail establishments, car dealerships keep their inventory outdoors and do not require structures or buildings for storage purposes. Thus, he concluded that the proposed lot does indeed constitute an expansion of the business which would result in increased traffic.

Delegate Joseph Bartenfelder also appeared in opposition to the Petition, citing fears of real estate depreciation if the Petitions were granted. In addition to these politicians, other residents appeared. Their testimony was consistent in its opposition to the project. These witnesses, who included Steven Stankiewicz, Samuel Long, Daryl Corona and Jerry Miller, all opposed the anticipated increase in traffic, destruction of the existing woodlands, increased lighting, dust and dirt which would be generated by the proposed Phase IV parking.

In considering the merits of the Petition for Special Variance, I must consider the plain meaning of the statute and intent of the legislature. See, e.g., *Falcone v. Palmer Ford, Inc.*, 242 Md. 487, 219 A2d 808, (1966) and *State v. Fabritz* 276 Md. 416, 348 A2d 275 (1975).

In this instance, particular attention must be given to the rationale for the adoption of Section 4A02.4.D of the B.C.Z.R. Within subsection F.1 thereof, it is noted that the Zoning Commissioner may grant a Petition for Special Variance, "only to an extent that it will not violate that provision's purpose. . .". Section 4A02.1 (Purpose and Intent) outlines the legislature's objective in adopting this regulation; that otherwise permissible development should not be allowed when existing public facili-

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ties are inadequate. As to transportation standards, and the existing road network, Section 4A02.4.D mandates that development should be restricted when the existing transportation infrastructure cannot accommodate traffic generated from the proposed use, as well as established sources. In reviewing this subsection of the B.C.Z.R., it is clear that the drafters thereof intended to limit and/or curtail development in those areas where the existing public transportation road work was failing. As is uncontradicted in this case, the existing business sits squarely within the Harford Road/Joppa Road corridor, the intersection of which is presently graded F due to its inability to support the existing traffic needs. Thus, it follows that any additions to traffic, no matter how slight, nor minor, should not be permitted.

Notwithstanding that obvious conclusion, the Petitioner requests that I determine this section of the B.C.Z.R. to be not applicable to his proposal because no building is to be constructed. Although that is indeed the case, Delegate Portz's observations are particularly relevant. The storage needs for an automobile dealership are unlike those of any other retail establishment. Unlike a clothier, appliance store, or other retail shop, the inventory for an automobile retailer need not be stored within a structure or a warehouse facility. All that is needed is a secure parking lot with sufficient area. Thus, although the subject property does not propose an increase by the addition of a building, the proposal is tantamount to an expansion of the business by the construction of additional impermeable surface to support inventory.

Further, it follows that if the inventory of the business is increased, the volume of business in retail sales will be expanded. Although the Petitioner offered testimony that the public will not be permit-

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By M. Hark

ted on the Phase IV lot and there will not be an increase in vehicular traffic, it must be concluded that there will be some increased traffic due to the businesses expansion.

In view of the already over congested Harford Road corridor and obvious intent of the regulations, I must conclude that the proposed construction should be prohibited. I find that the traffic increase covered by this expansion would adversely impact the surrounding locale and exacerbate an already difficult situation. Therefore, for the reasons set forth above, I find that the provisions of Section 4A02.4.D of Article 4A of the B.C.Z.R. are, in fact, applicable to the subject proposal and that the Petition for Special Variance for same should be denied. Having made this determination, it is, therefore, unnecessary to address the Petition for Variance for the proposed Phase IV lot.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of March, 1992 that a special variance from Section 4A02.4.D of Article 4A of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an exception from the requirements which govern development, as it impacts certain public facilities, (Case No. 92-206-SAA) be and is hereby DENIED; and,

IT IS FURTHER ORDERED that a variance from Sections 409.8.A.2, 409.8.A.5 and 409.8.A.6, as they apply to the proposed Phase IV expansion, (Case No. 92-206-SAA) is hereby MOOT; and

IT IS FURTHER ORDERED that a variance from Sections 409.8.A.2, 409.8.A.5 and 409.8.A.6 of the B.C.Z.R. as they apply to the body shop

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parking lot (Case No. 92-207-A), in accordance with Petitioner's Exhibit No. 2, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The construction and maintenance of the body shop lot shall be in accordance with the Zoning Advisory Committee (ZAC) comment dated November 15, 1991 from Robert C. Merrey, Jr., attached hereto and made a part hereof.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

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Date 3/31/92
By [Signature]

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Baltimore County Government
Zoning Commission
Office of Planning and Zoning

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-1386

March 30, 1992

Robert W. Cannon, Esquire
199 South Charles Street, 14th floor
Baltimore, Maryland 21201

RE: Case No. 92-206-SAA and 92-207-A
Petition for Special Variance and Petition for Zoning Variance
Barbara Griffith, Petitioner

Dear Mr. Cannon:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Variance and Zoning Variance have been granted in part and denied in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

[Signature]
Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

att.

cc: Mr. Larry Caulk
Mr. J. Abbott
Mr. Wes Guckert
Mr. Clyde F. Hinkle
Mr. Bernard Penner
Senator Thomas L. Bromwell
Delegate James Portz
Delegate Joseph Bartenfelder
Delegate Alfred Redner

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-206-SAA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from [Section] See Attachment (Phase IV) (3.2102A).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Barbara Griffith
Signature	[Signature]
Address	(Type or Print Name)
City and State	Signature
Attorney for Petitioner:	
Robert W. Cannon	c/o Robert W. Cannon (301) 332-8816
(Type or Print Name)	Address
[Signature]	100 South Charles Street
100 South Charles Street, 14th Floor	Baltimore, Maryland 21201
Address	City and State
Baltimore, Maryland 21201	Name
City and State	100 South Charles Street
Attorney's Telephone No.: (301) 332-8816	Baltimore, Maryland 21201 (301) 332-8816
	Address
	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

(over)

ATTACHMENT TO PETITION FOR ZONING VARIANCE

BARBARA GRIFFITH

92-206-SAA

(a) Section 409.8A.2 which requires a durable and dustless surface which shall be properly drained so as not to create any undesirable conditions to permit the installation of a stone surface in order to reduce the amount of impervious surface and permit a more efficient natural drainage system which will obviate the need to channelize runoff which creates water management problems; (b) Section 409.8A.5 which requires all dead end aisles shall be designed to provide sufficient back-up area for the end parking spaces to require no back-up area since the area will be used only in connection with the Petitioner's business to store vehicles and will not be used as a public parking facility; and (c) Section 409.8A.6 which requires all parking spaces must be striped and the striping shall be maintained so as to remain visible to require no striping since the area will be used only in connection with the Petitioner's business to store vehicles and will not be used as a public parking facility. Petitioner believes that the requested variances are in strict harmony with the spirit and intent of the zoning regulations and the requested variances would not result in substantial injury to the public health, safety or general welfare. Denial of Petitioner's request would cause Petitioner practical difficulty and/or unreasonable hardship.



Baldis & Associates, Inc.

92-206-SAA

ZONING DESCRIPTION
FOR
GRIFFITH AUTO - DEALERSHIP
PHASE IV

Beginning at a point N. 35°56'15"E, 349.74 feet and S. 56°25'02"E, 1545.22' from the centerline intersection of Harford Road (MD RTE. 147) which is 60' feet wide with Relocated East Avenue which is 50 feet wide; thence the following courses and distances:

S. 33°58'24"W, a distance of 290.01 feet to a point for corner; thence N. 56°19'46"W, a distance of 483.02 feet to a point for corner; thence N. 33°34'58"E, a distance of 289.26 feet to a point for corner; thence S. 56°25'02"E, a distance of 485.00 feet to the PLACE OF BEGINNING and containing 140,186 square feet or 3.2182 acres of land.

Being a part of that tract of land conveyed to Barbara Griffith by deed as recorded in the Baltimore County Land Records in Liber 7109 at Folio 613 and being also located in the 11th Election District.



M.S. Baldis

October 30, 1991

Civil Engineers / Land Planners / Surveyors — 1249 Engleberth Road / Baltimore, Md. 21221 / 301-391-22

PETITION FOR SPECIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-206-SAA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 4A02.4D of Article 4A, Growth Management, because the proposed open area for the storage of motor vehicles in connection with existing auto dealer activity on land zoned to accommodate this purpose will not involve any dwelling units or any building of any kind.

(Phase IV) (3.2102A)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons:

1. The statutory determination for calculating additional vehicle trips which is set forth in Section 4A02.4D does not provide a basis for the calculations for the proposed use. The standards for performing the calculation requires a building, or part of a building devoted to dwelling, retail, office or other uses. There is no other statutory basis upon which to calculate vehicle trips or to determine that the planned improvement will result in additional vehicle trips according to the regulations, because no building of any kind is involved.

2. The demand or impact of the proposed open area for the storage of motor vehicles will be less than that assumed by the district standard that would otherwise restrict or prohibit the use and the standard is not relevant to the proposal. The granting of this Petition will not adversely affect a person whose application was filed prior hereto, in accordance with subsection 4A02.1.G.2.8 in that there is no need for petitioner to submit an application under the referenced subsection.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Barbara Griffith
Signature	[Signature]
Address	(Type or Print Name)
City and State	Signature
Attorney for Petitioner:	
Robert W. Cannon	c/o Robert W. Cannon (301) 332-8816
(Type or Print Name)	Address
[Signature]	100 South Charles Street
100 South Charles Street, 14th Floor	Baltimore, Maryland 21201
Address	City and State
Baltimore, Maryland 21201	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	Robert W. Cannon
Attorney's Telephone No.: 301-332-8816	100 South Charles Street
	Baltimore, Maryland 21201 (301) 332-8816
	Address
	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

(over)

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 11th Date of Posting: 4/25/91

Posted for: Special Variance + Variance

Petitioner: Barbara Griffith

Location of property: 100 South Charles St. + East Ave

Location of Sign: 100 South Charles St. + East Ave

Remarks: [Signature]

Posted by: [Signature] Date of return: 4/29/91

Number of Signs: 2

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 11th Date of Posting: 5/24/92

Posted for: Appeal

Petitioner: Barbara Griffith

Location of property: 100 South Charles St. + East Ave

Location of Sign: 100 South Charles St. + East Ave

Remarks: [Signature]

Posted by: [Signature] Date of return: 5/29/92

Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD. 7 Nov 29, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7 Nov 28, 1991.

THE JEFFERSONIAN,

S. Zeke Orlow
Publisher

286 - \$ 84.44

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7 Nov 29, 1991.

NORTHEAST TIMES BOOSTER and
NORTHEAST TIMES REPORTER

Publisher

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R 001-6150
Number

Please Make Checks Payable To: Baltimore County \$219.00

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-6150
Number

044040135M1CHRC
\$9 0010564010-31-91 \$175.00
Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Please Make Checks Payable To: Baltimore County

Cashier Validation

111 West Chesapeake Avenue
Towson, MD 21204

847-3354

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



DATE: 12-5-91

Barbara Griffith
c/o Robert Cannon, Esq.
100 South Charles Street
Baltimore, Maryland 21201

RE:
CASE NUMBER: 92-206-SAA
REC Harford Road was relocated East Avenue
9213 Harford Road - Phase IV, Parking/Storage Lot
11th Election District - 6th Councilmanic
Petitioner(s): Barbara Griffith

Dear Petitioner(s):

Please be advised that \$ 125.44 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Barbara Griffith
Director

ARUNDO JARLON
DIRECTOR

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

847-3354

NOVEMBER 19, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-206-SAA
REC Harford Road was relocated East Avenue
9213 Harford Road - Phase IV, Parking/Storage Lot
11th Election District - 6th Councilmanic
Petitioner(s): Barbara Griffith
HEARING: THURSDAY, DECEMBER 12, 1991 at 9:30 a.m.

Special Variance from growth management because the proposed open area for the storage of motor vehicles in connection with existing auto dealer activity on land zoned to accommodate this purpose will not involve any dwelling units or any building of any kind (Phase IV). Variance to permit the installation of a stone surface in lieu of a durable and dustless surface; to permit no back-up area for vehicle storage area in lieu of required back-up area for dead-end aisles; and to permit no striping for vehicle storage area in lieu of required striping for parking spaces.

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Robert W. Cannon, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 12, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 92-206-SAA and 92-207-SPHA
LEGAL OWNER: Barbara Griffith
LOCATION: 9213 Harford Road

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

MONDAY, JANUARY 27, 1992 at 9:00 a.m.

IN THE BALTIMORE COUNTY, ROOM 118, COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON, MARYLAND 21204.

Lawrence E. Schmidt
Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY

cc: Barbara Griffith c/o Robert W. Cannon
Robert W. Cannon, Esq./100 S Charles/14th Floor/21201
Senator Thomas L. Bromwell/7503 Belair Road/2nd Floor/21236
Delegate James P. Portis/4546 Fitch Avenue/21236
Delegate Alfred W. Redmer, Jr./4101 Kahlston Road/21236
Jerry Miller/10616 Beaver Dam Road/Hunt Valley 21030

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 3, 1991

Robert W. Cannon, Esquire
100 South Charles Street, 14th Floor
Baltimore, MD 21201

RE: Item No. 218, Case No. 92-207-A
Petitioner: Barbara Griffith
Petition for Zoning Variance

Dear Mr. Cannon:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committee Comments
Date: December 3, 1991
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this
29th day of October, 1991.

ARNOLD JABLON
DIRECTOR

Received By:

Chairman,
Zoning Plans Advisory Committee

Petitioner: Barbara Griffith

Petitioner's Attorney: Robert W. Cannon

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: December 3, 1991
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Griffith Property, Item No. 217 & 218

Please append the attached to staff comments previously
submitted on November 29, 1991.

If there should be any further questions or if this office can
provide additional information, please contact Jeffrey Long in the
Office of Planning at 887-3211.

PK/JL:rdn
ITEM217/TXTROZ

GRIFFITH AUTO DEALERSHIP
11:00 A.M., (CRG)

The Office of Planning and Zoning has reviewed the revised subject
plan dated September 4, 1991 and submits the following additional
highlighted comments to be addressed prior to final Planning approval:

1. This site is located within a traffic area controlled by a "F" level
of service intersection at Harford Road and Joppa Road as designated on
the Basic Services Maps adopted by the County Council. Bill No. 178-79
requires that no final subdivision approval may be granted and no
building permit may be issued unless the Director of the Office of
Planning and Zoning issues a Reserve Capacity Use certificate in
accordance with Section 4A02 of the Baltimore County Zoning
Regulations.

As referenced in County Council Bill No. 178-79 and the Baltimore
County Zoning Regulations (B.C.Z.R.), Article 4A Growth Management, the
transportation standards and maps are intended to regulate the
nonindustrial development where it has been determined that the
capacity of the arterial (Harford Road) and arterial collector (Joppa
Road) intersection is less than necessary to accommodate traffic both
from established uses and the proposed use. It is the opinion of the
Office of Planning and Zoning (OPZ) that the construction and
utilization of the proposed vehicle storage lot will generate daily
peak hour trips that will create additional traffic congestion at this
key intersection. The attached letter from Mr. Robert W. Cannon to the
Baltimore County Planning Board, dated April 28, 1988, further
reinforces staff's position that on site expansion of the Griffith car
dealership property would increase business activity and exacerbate
traffic congestion at an intersection rated at an "F" Level of Service
(LOS).

In accordance with Section 4A02.3.G.1.B. of the B.C.Z.R., the OPZ
hereby notifies the applicant that no permits may be issued on this
project at this time because no additional trip capacity exists at the
intersection of Harford and Joppa Roads. Although the subject CRG
(County Review Group) plan may be approved, any (building) permits
issued by Baltimore County will be withheld as required by Bill No.
178-79.

2. Be advised that Baltimore County may not process plans or permits for
any proposed development if the applicant owns or has any interest in
any property located in the County upon which there exists, at the time
of the application or during the processing thereof, a violation of the
Baltimore County Zoning Regulations.

3. Section 409.8 of the Baltimore County Zoning Regulations requires
that any fixtures used to illuminate any parking facility shall be so
arranged as to reflect the light away from residential lots and public
streets. Light standards shall also be protected from vehicular
traffic by curbing and/or landscaping.

If lighting after business hours is necessary for security reasons,
lower wattage lighting fixtures should be used in areas adjacent to
residential development and the public right of way.

4. Due to the proximity and potentially adverse effects on adjacent
residential properties, this office will not support a variance to
Section 409.8.2 Baltimore County Zoning Regulations for the proposed
parking area; therefore, this lot must be shown as proposed paving on
the CRG plan.
5. The limit of disturbance line, as shown on the CRG plan, must be
included on all subsequent plans including the Final Landscape Plan and
the Grading and Sediment Control Plan.
6. Indicate the extent of the stone paving.
 - o Northern property line adjacent to residential properties should
fully comply with Class A screening requirements.
 - o In addition to complying with Class A screening, the proposed
parking should provide a six (6) foot high opaque fence directly
abutting the paving. The required planting is necessary to be
provided on the residential side of the fence.
7. A schematic landscape plan must be submitted for this plan to be
considered for CRG approval. A final landscape plan approved by the
Office of Planning and Zoning is required prior to the issuance of
grading or building permits. The schematic landscape plan must address
the following issues:

This office does not object to the landscape modifications within the
proposed vehicle storage lot. Be advised that no credit will be
granted for saving existing trees outside the net buildable area. Full
compliance with the required amount of plant material is necessary to
buffer existing adjacent properties.
8. This office recommends that no outdoor paging system be permitted in
connection with this development due to the proximity of adjacent
residential properties.

A:CRG91.TXT
PM:ceb

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: November 29, 1991
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Griffith Property, Item No. 217 & 218

In reference to the Petitioner's request, staff offers the
following comments:

*This project received CRG approval on September 12, 1991
(See File XI-489).

The Office of Planning and Zoning, in accordance with Section
4A02.3.G.1.B. of the Baltimore County Zoning Regulations, has
notified the applicant no permits may be issued for this project at
this time because no additional trip capacity exists at the
intersection of Harford and Joppa Roads. This site is located within
a traffic area controlled by a "F" level of service intersection at
Harford and Joppa Roads as designated on the Basic Services Maps
adopted by the County Council.

The Baltimore County Master Plan identifies the vicinity in
which this site is located as a Community Conservation area.

Under the heading of Community Conservation on P. 81, the Master
Plan offers the following policies to ensure that the "physical and
social structure . . . [is] maintained":

*Control the density, intensity, and quality of new
development and redevelopment in older urbanized
communities through selective down zoning and revis-
ions to the Development Regulations.

*Establish land use patterns that do not increase extra-
neous traffic through residential neighborhoods.

*Maintain or improve the quality of existing housing stock.

*Mitigate the adverse impacts arising from conflicting uses.

The area immediately adjacent to the portion of the property
subject to display vehicle storage use is comprised of well
maintained, single-family detached dwellings. In the opinion of
staff, storage of vehicles at this location would be incompatible
with the existing residential use of the adjoining properties.
Therefore, based upon a review of the information provided and the
analysis conducted, we recommend the applicant's request be denied.

If there should be any further questions or if this office can
provide additional information, please contact Jeffrey Long in the
Office of Planning at 887-3211.

PK/JL:rdn
ITEM217/TXTROZ

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: November 27, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
FROM: Rahee J. Famill
SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: November 12, 1991

This office has no comments for item numbers 210, 212, 213, 214,
217 and 218.

Rahee J. Famill
Traffic Engineer II

RJF/lvd

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

NOVEMBER 26, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: BARBARA GRIFFITH
Location: 9213 HARFORD ROAD - PHASE IV
Item No.: 217 Zoning Agenda: NOVEMBER 12, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by
this Bureau and the comments below are applicable and required to be
corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: GS Fife Noted and Approved Cap W.F. Brady
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/KEK

BALTIMORE COUNTY, MARYLAND
Inter-office Correspondence

TO: Zoning Commissioner, Office of Planning & Zoning
FROM: Robert C. Merrey, Jr.
DATE: November 15, 1991
SUBJECT: Zoning Variance Request, ZAC #218

Property Owners: Barbara Griffith
Location: 9213 Harford Road - Body Shop Parcel
Existing Zoning: B.M.
Area: 1.99 acres
District: 11th Election District, 6th Councilmanic District

This office recommends approval of crusher-run "crushed stone" in lieu of the
required durable and dustless surface for the parking area. All crusher-run
surfaces are to be treated in accordance with Environment Article 26.11.06.03 D (2)
in order to prevent particulate matter from becoming airborne. Treatment and
maintenance of this surface is an owner responsibility and will be on a continuing
basis as necessary to control airborne particulate.

cc: Zoning Variance File

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: September 10, 1991

TO: Mr. Robert Covahey
FROM: Stephen E. Weber
SUBJECT: C.R.G. Comments
PROJECT NAME: Griffith Auto Dealership
LOCATION: Harford Road

The intersection of Joppa Road and Harford Road is identified as an "m" level-of-service intersection on the 1991 Basic Services Transportation Map. Building permits will be held up until the level-of-service improves.

Stephen E. Weber
Stephen E. Weber, P.E.
Assistant Traffic Engineer

SEW/RJP/lvd

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 14, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Variance
NEC Harford Road and relocated East Avenue
(9213 Harford Road Phase IV, Parking/Storage Lot)
11th Election District, 6th Councilmanic District
Barbara A. Griffith - Petitioner
Case Nos. 92-206-SAA and 92-207-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 20, 1992 by Robert W. Cannon, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

LES:cer

Enclosures

cc: Barbara A. Griffith - 9213 Harford Road Balto., MD 21234

Robert W. Cannon, Esquire - 1400 Equitable Bank Center
100 South Charles Street, Baltimore, MD 21201

Bernard Penner, Esquire - 9209 Avondale Road, Balto., MD 21234

Senator Thomas L. Bromwell - 12 Redfield Court, Balto., MD 21236

Delegate Joseph Bartenfelder - 4803 Royahn Ave., Balto., MD 21236

People's Counsel - 400 Washington Avenue, Towson, MD 21204

Printed on Recycled Paper

APPEAL

Petition for Special Variance
NE/C Harford Road and relocated East Avenue
(9213 Harford Road Phase IV, Parking/Storage Lot)
11th Election District - 6th Councilmanic District
BARBARA A. GRIFFITH - Petitioner
Case No. 92-206-SAA and 92-207-A

Petition(s) for Special Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (Included with ZAC Comments)

Petitioner's & Protestant's Sign-In Sheets

"Introduction" from Robert W. Cannon

Protestants Statement of Opposition to Petition

Protestants Memorandum

Response to Protestant's Memorandum

Petitioner's Exhibits: 1. & 2. Plat to accompany Petition

3. - No exhibit in file

4. - ZAC Comments

5. Qualifications of Wes Guckert

Protestant's Exhibits: 1. Photographic Map

2. Copy of Planning's Comments

3. Copy of letter from R. W. Cannon

4. & 5. Authorizations for Jerry Miller

Unmarked Exhibit: Jerry Miller's Statement - Traffic

Zoning Commissioner's Order dated March 31, 1992 (Denied)

Notice of Appeal received April 20, 1992 from Robert W. Cannon, Attorney on behalf of the Petitioner

cc: Barbara A. Griffith - 9213 Harford Road Balto., MD 21234

Robert W. Cannon, Esquire - 1400 Equitable Bank Center
100 South Charles Street, Baltimore, MD 21201

Bernard Penner, Esquire - 9209 Avondale Road, Balto., MD 21234

Appeal Checklist
Case No. 92-206-SAA
May 15, 1992
Page 2

Senator Thomas L. Bromwell - 12 Redfield Court, Balto., MD 21236

Delegate Joseph Bartenfelder - 4803 Royahn Ave., Balto., MD 21236

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration
and Development Management
Public Services



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 9, 1992

Robert W. Cannon, Esquire
WEINBERG AND GREEN
100 South Charles Street
Baltimore, MD 21201-2773

RE: Case No. 92-206-SAA
Barbara Griffith

Dear Mr. Cannon:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Bernard Penner, Esquire
Barbara A. Griffith
Mr. Jerry Miller
The Honorable Thomas L. Bromwell
The Honorable Joseph Bartenfelder
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration

7/14/92 - Following parties notified of hearing set for October 8, 1992 at 10:00 a.m.:

Robert W. Cannon, Esquire
Barbara A. Griffith
Bernard Penner, Esquire
Senator Thomas L. Bromwell
Delegate Joseph Bartenfelder
People's Counsel for Baltimore County
Public Services
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

10/05/92 - Request for PP from J. Miller, protestant / VP of Thornwood Community Association (unable to attend on 10/06/92 due to just-scheduled surgery); and also request due to unavailability of President of Thornwood Comm Assn (Steve Stankiewicz) on hearing date due to employment conflict. B. Cannon, Counsel for Petitioner, objects to postponement.

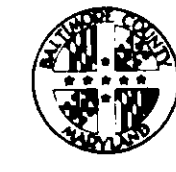
Per WTH, Chairman --postponement to be denied; possible to bring in witnesses unable to attend 10/08 on a mutually agreed-to date; record can be held open until such time as balance of testimony is taken.

Representation for both parties to appear on 10/08/92 to begin hearing.

10/08/92 -Hearing concluded; J. Miller was in attendance (rescheduled surgery); S. Stankiewicz did not attend; presence was not necessary. Memo filed at hearing by B. Cannon; response due from B. Penner by 10/22/92.

10/22/92 -T/C from Mr. Penner /Memorandum to be hand-delivered to Board's office on 10/23/92.

10/23/92 -Memo filed by Mr. Penner.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

July 14, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-206-SAA
AND 92-207-A

BARBARA A. GRIFFITH
NE/cor Harford Road and Relocated
East Avenue (9213 Harford Road
Phase IV, Parking/Storage Lot)
11th Election District
6th Councilmanic District

SA-exception from Sec. 4A02.4.D/
BCCR/Growth Mgmt. Regulations;
VAR-exemption from requirements/
parking lot

3/31/92 - Z.C.'s Order DENYING Petitions.

ASSIGNED FOR: THURSDAY, OCTOBER 8, 1992 AT 10:00 a.m.

cc: Robert W. Cannon, Esquire Counsel for Petitioner

Barbara A. Griffith Petitioner

Bernard Penner, Esquire

Senator Thomas L. Bromwell

Delegate Joseph Bartenfelder
People's Counsel for Baltimore County

Public Services
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon - Director
Zoning Administration

Added 10/05/92 per request:
Jerry Miller

LindaLee M. Kuszmaul
Legal Secretary

RE: PETITION FOR SPECIAL VARIANCE : BEFORE THE COUNTY BOARD OF APPEALS
NE Corner Harford Rd. and : OF BALTIMORE COUNTY
Relocated East Ave. (9213 :
Harford Rd. Phase IV, Parking/ : Case Nos. 92-206-SAA & 92-207-A
Storage Lot), 11th Election : District, 6th Councilmanic
District, 6th Councilmanic :
District

BARBARA A. GRIFFITH, Petitioner :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 28th day of May, 1992, a copy of the foregoing Entry of Appearance was mailed to Robert W. Cannon, Esquire, 1400 Equitable Bank Center, 100 S. Charles St., Baltimore, MD 21201; and Bernard Penner, Esquire, 9209 Avondale Rd., Baltimore, MD 21234.

Peter Max Zimmerman
Peter Max Zimmerman

IN RE: PETITION FOR SPECIAL VARIANCE *
NEC Harford Rd. and relocated *
East Ave, 9213 Harford Road *
Phase IV, Parking/Storage Lot *
11th Election District *
6th Councilmanic District *
Barbara A. Griffith *
Petitioner *

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Case Nos. 92-206-SAA
and 92-207A ✓

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a consolidated case; combining the Petition for Special Variance and Petition for Zoning Variance filed in case No. 92-206 SAA with a Petition for Zoning Variance filed in case No. 92-207 A. Both cases involve a common property owned by Barbara A. Griffith. The subject property is located near the intersection of Harford Road and relocated East Avenue in the Thornwood Subdivision of Baltimore County. The site is the long time home of Griffith Auto Dealership. The property is near to, and visible from, the Baltimore Beltway (1695).

As indicated above, the cases are consolidated and involve a common property. The property is approximately 11.50 acres in area and is split zoned B.M.-C.S.2, B.M. and D.R.5.5. The site is improved with a new car sales building, a used car center building, a parts and service building, a body and parts shop, and several parking lots to support these structures. Two portions of the property are relevant to this case. They are a body shop-parking lot and proposed vehicle storage area. The body shop and lot for same are located to the rear of the property as one enters from Harford Road. The proposed Phase III lot is to the extreme rear of the property.

As to the Petition for Zoning Variance under case No. 92-207A, the Petitioner seeks relief as it relates to parking requirements on the body shop parking lot. Specifically, the Petitioner seeks a variance from Sections 409.B.A.2, 409.B.A.5 and 409.B.A.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an exemption from the requirements that the body shop parking lot be durable and dustless; that a backup area be shown; and that all parking spaces must be striped. As noted, these variances all relate to the existing body shop parking lot, which is 1.99 acres in size.

As to case No. 92-206-SAA, both a special variance and a variance are requested. The variance seeks the identical relief as is requested for the body shop parking lot. The special variance seeks an exception from the requirements within Section 4A02.4.D. of the B.C.Z.R., which govern development as it impacts certain public facilities.

The matter was scheduled for public hearing and substantial testimony was presented, both for and against the proposed variances. The Petitioner was represented at the hearing by Robert W. Cannon and the Protestants, which generally consisted of those residents of the Thornwood Community Association, were represented by Bernard Penner. Numerous exhibits were presented. These included Petitioner's Exhibit No. 2, the plan to accompany the Petitions which clearly depicts the relief that is requested.

Addressing, first, the Petition for Zoning Variance arising out of case No. 92-207A, Mr. James Abbott, the Parts Service Manager at the Griffith Dealership, testified that the body shop has been in its present location since 1979. He indicated that the parking area, which adjoins same and is the subject of the requested variance, is completely fenced and access thereto is through a controlled gate. Further, he testified

-3-

that there was no customer parking allowed within the body shop lot in that it was restricted to employees. Mr. Abbott discussed each of the three (3) variances requested for the body shop lot in detail. As to the variance from Section 409.B.A.2, he opined that a crushed stone surface was preferable to a durable macadam surface because of drainage concerns. Specifically, he noted that the property slopes away from the body shop location and that an impermeable surface might cause drainage problems. His concern is echoed by the Zoning Advisory Committee comment received from the Department of Environmental Protection and Resource Management (DEPRM). That office also recommends approval of a crusher run "crushed stone" surface for the body shop parking area. Thus, in view of Mr. Abbott's testimony and the support offered by DEPRM, I am persuaded that the variance to the durable and dustless surface requirement should be granted.

As to the variances from Sections 409.B.A.5 and 409.B.A.6, Mr. Abbott testified that strict compliance to those regulations was not necessary. He noted that the subject parking area is restricted so that customers cannot park within that location and that same is used by employees for storage purposes. Therefore, there is no real need for striping and a maneuvering area because the employees prefer an unrestricted area to move and park cars as the needs of their business require. Again, Mr. Abbott's testimony is well taken in this regard and completely logical. There can be no doubt that the requirements set forth in Sections 409.B.A.5 and 409.B.A.6 were adopted so as to provide uniformity in public parking areas. However, in that the subject lot is not a public parking area, such compliance is unnecessary. To require the Petitioner to strictly adhere to these requirements would unduly restrict the nature of his business operation and constitute real practical difficulty.

-5-

Turning to the relief requested in case No. 92-206-SAA, it is apparent that the special variance be considered first, for only, if it is granted, will the zoning variance need be considered. It is clear that the community association's opposition centers primarily against the special variance. As the plat to accompany the petition indicates, the Griffith property is a narrow, but deep, lot which fronts Harford Road. The rear of the lot is presently unimproved and heavily wooded. It is transected by 2 streams. Further, the rear portion, identified as Phase IV on the plan, is adjacent to the residential community known as Thornwood. The community association, for obvious reasons, prefers that the Phase IV lot be left in its virgin condition. Although the community's desires are well understood, it must be noted that they cannot form the basis of my decision. That is, any property owner is entitled to develop his land as he desires, so long as said development is in conformance with the development and zoning regulations. The community's desire to retain the pleasing esthetic appearance of this section of the property is not germane to the issue presented.

As to the proposed Phase IV lot construction, significant testimony was offered by Mr. Abbott, as well as Larry Caulk, Vice President of the Griffith Dealership. Also testifying on behalf of the Petitioner was Clyde Hinkle from the engineering firm of Haffin and Associates, Inc., who prepared Petitioner's Exhibit No. 2. Other expert testimony was presented by the Petitioner, including that of Wes Guckert of The Traffic Group, Inc., a traffic engineer.

As to Mr. Abbott and Mr. Caulk, they testified about the needs of the business as contemplated within its proposed expansion. It is proposed that the Phase IV area be converted to a parking area for vehicle stor-

-4-

age. The vehicle storage area would permit 179 cars to be stored at this portion of the site. The witnesses from Griffith testified that an increased storage area was needed in order to support the retail car sales business maintained by the property owner.

As to the expert witnesses, namely, Mr. Hinkle and Mr. Guckert, much of their testimony surrounded the growth management regulations found within Article 4A of the B.C.Z.R. Specifically, they discussed that portion of those regulations found within Section 4A02.4.D. of Article 4A, which addresses the restriction of development near a street system which is at, or over, capacity. To paraphrase, the regulations delineate certain requirements for development consistent with existing traffic conditions in the locale. The regulations specifically provide that development is precluded near an over capacity intersection. In the instant case, it is uncontradicted that the site is located within close proximity of the failing (over capacity) intersection at Harford and Joppa Roads. Thus in order to build, as contemplated, the Petitioner needs either a special variance or a determination that the requirements of Section 4A02.4.D. are inapplicable to this development. Simply stated, the Petitioner requests that I hold that the proposed construction of the Phase IV lot will not adversely impact the already existing failing intersection at Harford and Joppa Roads. If I so find, the construction of the Phase IV lot may be permitted.

Mr. Guckert's testimony centered upon this issue. He noted that the proposed construction was that of a parking lot and that no building or structure was planned. He further addressed the standards enunciated under Section 4A02.4.D.3(a) which are used to determine the additional vehicle trips which will be generated based upon a given use. For exam-

-5-

ple, for every 100 dwelling units, other than for the elderly, an additional 85 peak hour vehicle trips daily are expected to be generated. For a retail use, an additional 14.70 peak hour vehicle trips are expected to be generated for every 1,000 square feet of gross floor area of the retail facility. As Mr. Guckert noted, there is no standard for a vehicle storage lot. Additionally, he noted the definition of the word "building" within Section 101 of the B.C.Z.R. and its application to the growth management regulations. Therein, a building is defined as "a structure enclosed within exterior walls or fire walls for the shelter, support or enclosure of persons, animals or property of any kind." Since there will be no building, as defined, in the proposed Phase IV construction, Mr. Guckert concluded that Section 4A02.4.D. of the B.C.Z.R. is inapplicable to the proposed expansion. Moreover, even if applicable, he opined that a variance to same should be granted under the purview of Section 4A02.4.F. of the regulations. That section allows a special variance to be granted upon the finding that the demand or impact of the development will be less than assumed by the district standard, or the standard is not relevant to the specific proposal; and that the granting of the Petition will not adversely affect the person whose application was filed prior to the Petitioner's application.

In opposition to Mr. Guckert's opinion, and those of the other Petitioner's witnesses, numerous witnesses testified. These included representatives of the legislative team which represents this district in Annapolis. Their testimony can be summarized, as follows:

Alfred Redmer, a business owner and delegate, believes that the proposed expansion in Phase IV would adversely affect the locale. He fears increased traffic, noise and dust.

-6-

Senator Thomas L. Bromwell from this district also testified. He discussed the already high level of traffic on Harford Road and that additional vehicular traffic cannot be supported by the existing road network.

Delegate James Portz also testified. He noted that unlike other retail establishments, car dealerships keep their inventory outdoors and do not require structures or buildings for storage purposes. Thus, he concluded that the proposed lot does indeed constitute an expansion of the business which would result in increased traffic.

Delegate Joseph Bartenfelder also appeared in opposition to the Petition, citing fears of real estate depreciation if the Petitions were granted. In addition to these politicians, other residents appeared. Their testimony was consistent in its opposition to the project. These witnesses, who included Steven Stankiewicz, Samuel Long, Daryl Corona and Jerry Miller, all opposed the anticipated increase in traffic, destruction of the existing woodlands, increased lighting, dust and dirt which would be generated by the proposed Phase IV parking.

In considering the merits of the Petition for Special Variance, I must consider the plain meaning of the statute and intent of the legislature. See, e.g., *Falcone v. Palmer Ford, Inc.*, 242 Md. 487, 219 A2d 808, (1966) and *State v. Fabritz* 276 Md. 416, 348 A2d 275 (1975).

In this instance, particular attention must be given to the rationale for the adoption of Section 4A02.4.D of the B.C.Z.R. Within subsection F.1 thereof, it is noted that the Zoning Commissioner may grant a Petition for Special Variance, "only to an extent that it will not violate that provision's purpose. . .". Section 4A02.1 (Purpose and Intent) outlines the legislature's objective in adopting this regulation; that otherwise permissible development should not be allowed when existing public facili-

-7-

ties are inadequate. As to transportation standards, and the existing road network, Section 4A02.4.D mandates that development should be restricted when the existing transportation infrastructure cannot accommodate traffic generated from the proposed use, as well as established sources. In reviewing this subsection of the B.C.Z.R., it is clear that the drafters thereof intended to limit and/or curtail development in those areas where the existing public transportation road work was failing. As is uncontradicted in this case, the existing business sits squarely within the Harford Road/Joppa Road corridor, the intersection of which is presently graded F due to its inability to support the existing traffic needs. Thus, it follows that any additions to traffic, no matter how slight, nor minor, should not be permitted.

Notwithstanding that obvious conclusion, the Petitioner requests that I determine this section of the B.C.Z.R. to be not applicable to his proposal because no building is to be constructed. Although that is indeed the case, Delegate Portz's observations are particularly relevant. The storage needs for an automobile dealership are unlike those of any other retail establishment. Unlike a clothing, appliance store, or other retail shop, the inventory for an automobile retailer need not be stored within a structure or a warehouse facility. All that is needed is a secure parking lot with sufficient area. Thus, although the subject property does not propose an increase by the addition of a building, the proposal is tantamount to an expansion of the business by the construction of additional impermeable surface to support inventory.

Further, it follows that if the inventory of the business is increased, the volume of business in retail sales will be expanded. Although the Petitioner offered testimony that the public will not be permit-

-8-

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353
May 14, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Variance
NEC Harford Road and relocated East Avenue
(9213 Harford Road Phase IV, Parking/Storage Lot)
11th Election District, 6th Councilmanic District
Barbara A. Griffith - Petitioner
Case Nos. 92-206-SAA and 92-207-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 20, 1992 by Robert W. Cannon, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

LES:cer

Enclosures

cc: Barbara A. Griffith - 9213 Harford Road Balto., MD 21234
Robert W. Cannon, Esquire - 1400 Equitable Bank Center
100 South Charles Street, Baltimore, MD 21201
Bernard Penner, Esquire - 9209 Avondale Road, Balto., MD 21236
Senator Thomas L. Bromwell - 12 Redfield Court, Balto., MD 21236
Delegate Joseph Bartenfelder - 4803 Royahn Ave., Balto., MD 21236
People's Counsel - 400 Washington Avenue, Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
November 19, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-207-A
NEC Harford Road and relocated East Avenue
9213 Harford Road - (Body Shop Parcel)
11th Election District - 6th Councilmanic
Petitioner(s): Barbara Griffith
HEARING: THURSDAY, DECEMBER 12, 1991 at 9:30 a.m.

Variance to permit the installation of a stone surface in lieu of a durable and dustless surface; to permit no back-up area for vehicle storage area in lieu of required back-up area for dead-end aisles; and to permit no striping for vehicle storage area in lieu of required striping for parking spaces.

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner of
Baltimore County

cc: Robert W. Cannon, Esq.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180
Hearing Room - Room 49
Old Courthouse, 400 Washington Avenue
July 14, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-206-SAA
AND 92-207-A

BARBARA A. GRIFFITH
NE/cor Harford Road and Relocated
East Avenue (9213 Harford Road
Phase IV, Parking/Storage Lot)
11th Election District
6th Councilmanic District

SA-exception from Sec. 4A02.4.D/
BCZR/Growth Mgmt. Regulations;
VAR-exemption from requirements/
parking lot

3/31/92 - Z.C.'s Order DENYING Petitions.

ASSIGNED FOR: THURSDAY, OCTOBER 8, 1992 AT 10:00 a.m.

cc: Robert W. Cannon, Esquire Counsel for Petitioner
Barbara A. Griffith Petitioner
Bernard Penner, Esquire
Senator Thomas L. Bromwell
Delegate Joseph Bartenfelder
People's Counsel for Baltimore County
Public Services
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon - Director
Zoning Administration
LindaLee M. Kuszmaul
Legal Secretary

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353
December 12, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 92-206-SAA and 92-207-SPHA
LEGAL OWNER: Barbara Griffith
LOCATION: 9213 Harford Road

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

MONDAY, JANUARY 27, 1992 at 9:00 a.m.

IN THE BALTIMORE COUNTY, ROOM 118, COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON, MARYLAND 21204.

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner
BALTIMORE COUNTY

cc: Barbara Griffith c/o Robert W. Cannon
Robert W. Cannon, Esq./100 S Charles/14th Floor/21201
Senator Thomas L. Bromwell/7503 Belair Road/2nd Floor/21236
Delegate James F. Porter/4546 Fitch Avenue/21236
Delegate Alfred W. Redmer, Jr./4101 Kahleton Road/21236
Jerry Miller/10616 Beaver Dam Road/Hunt Valley 21030

BALTIMORE COUNTY, MARYLAND
Inter-office Correspondence

TO: Zoning Commissioner, Office of Planning & Zoning
FROM: Robert C. Merrey, Jr.
DATE: November 15, 1991
SUBJECT: Zoning Variance Request, ZAC # 217

Property Owner: Barbara Griffith
Location: 9213 Harford Road - Phase IV, Parking/Storage Lot
Existing Zoning: B.M.
Area: 3.2182 acres
District: 11th Election District, 6th Councilmanic District

This office recommends approval of crusher-run "crushed stone" in lieu of the required durable and dustless surface for the parking area. All crusher-run surfaces are to be treated in accordance with Environment Article 26.11.06.03 D (2) in order to prevent particulate matter from becoming airborne. Treatment and maintenance of this surface is an owner responsibility and will be on a continuing basis as necessary to control airborne particulate.

cc: Zoning Variance File

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(301) 332-8816
October 21, 1991

VIA HAND DELIVERY

Mr. Carl Richards
Development Control Section
Office of Planning and Zoning
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Griffith

Dear Carl:

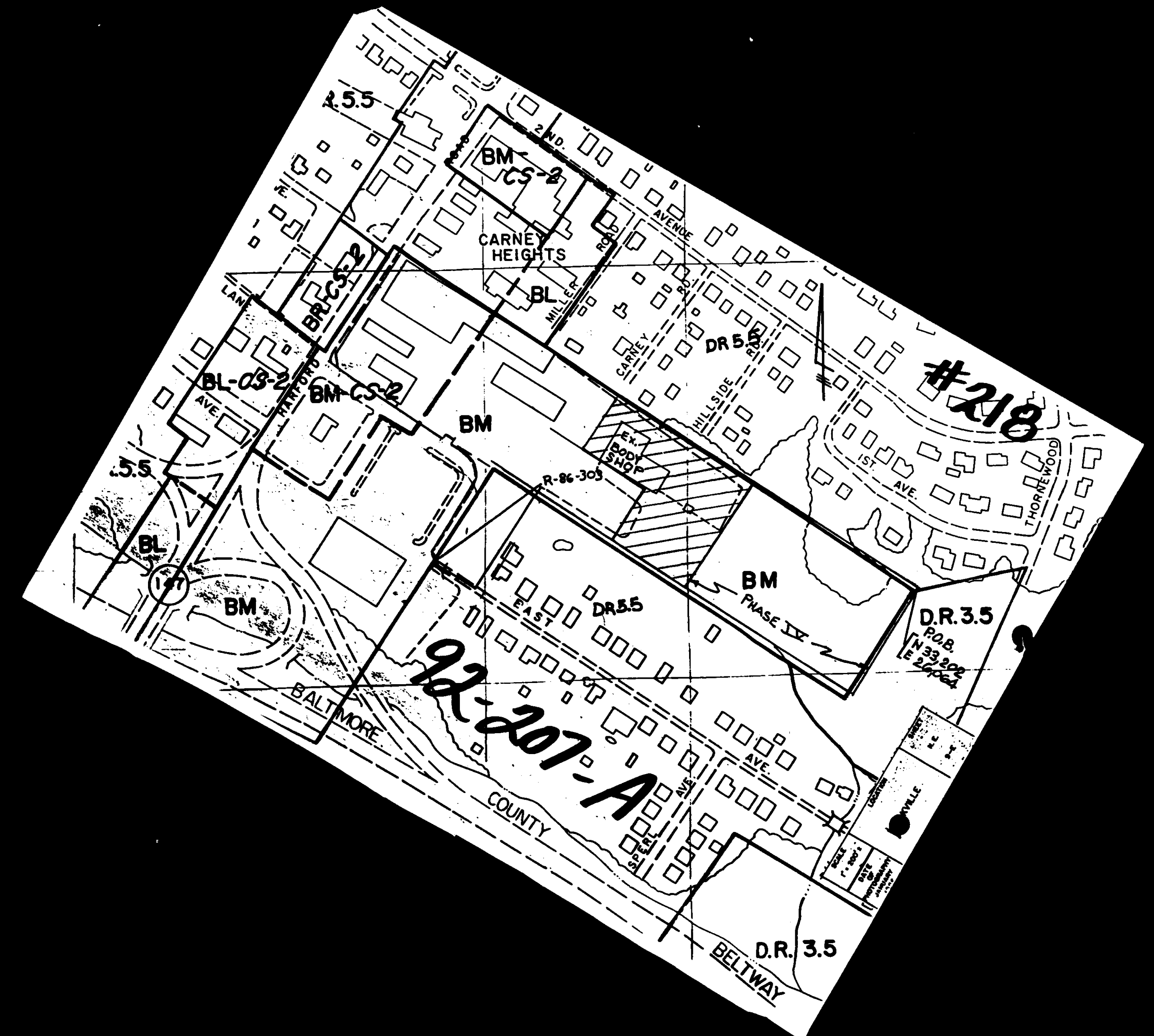
Enclosed please find three (3) zoning petitions in connection with the Griffith auto dealership located on Harford Road, north from Relocated East Avenue.

The first petition is a Petition for Zoning Variance from various provisions of Section 409.8A of the Baltimore County Zoning Regulations for the area around the existing body shop. The submission includes the following materials:

- Three (3) executed Petitions for Zoning Variance;
- Three (3) copies of the property description for the entire parcel;
- Twelve (12) original Plats to accompany Petition for Variance; and
- One copy of the 200-scale zoning map.

The second petition is for a Petition for Zoning Variance from the same provisions of Section 409.8A as described above for Phase IV of the project and includes the following:

- Three (3) executed Petitions for Zoning Variance;



217

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

92-206-SAA

10480 LITTLE PATENT PARKWAY
COLUMBIA, MARYLAND 21044-3506
(301) 740-8500
WRITER'S DIRECT DIAL NUMBER
(301) 332-8816

1300 332-8800
WASHINGTON AREA 410-7400
FACSIMILES
(301) 332-8862
(301) 332-8863

14 WEST PATRICK STREET
FREDERICK, MARYLAND 21701-5512
(301) 695-9200
FILE NUMBER
9983.37

October 22, 1991

VIA FACSIMILE

Mr. Clyde Hinkle
Bafitis & Associates, Inc.
1249 Engleberth Road
Baltimore, Maryland 21221

Re: Griffith

Dear Clyde:

I met with Carl Richards yesterday concerning the various requests we have for the Griffith Organization. We presented three separate petitions along with all of the supporting documentation. After this meeting we have decided on the following:

1. There will be two item numbers, one reflecting the variance at the body shop area and the other affecting Phase IV. The Phase IV case will include the Petition for Special Variance and the Petition for the Variance.
2. Carl Richards would like you to stop by and see him so that you can use a bold red marker, which he will furnish to you, in order to highlight the body shop area. He also requests that you add the words "body shop" to the panel of the plat for the body shop area and add a reference to Phase IV to the other plats. These can be written by hand at the time you go in to mark the plat.
3. He has asked that you mark the 200 scale zoning map to show the approximate location of the body shop in the one instance and of the Phase IV project for the other file. A copy of the 200 scale map is attached. I assume you have other copies of the 200 scale map and bring with you when you meet with him.
4. We decided we did not need the description of the entire premises for the Phase IV file.

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

92-206-SAA

10480 LITTLE PATENT PARKWAY
COLUMBIA, MARYLAND 21044-3506
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14 WEST PATRICK STREET
FREDERICK, MARYLAND 21701-5512
(301) 695-9200
FILE NUMBER
9983.37

October 22, 1991

Mr. Carl Richards
Development Control Section
Office of Planning and Zoning
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Griffith

Dear Carl:

Enclosed you will find our check in the amount of \$350.00 made payable to Baltimore County, Maryland reflecting the filing fees in connection with the Griffith matter which we spoke about at our meeting yesterday. You will also find enclosed a copy of my letter to the engineer in the project, Clyde Hinkle. Clyde will be in touch with you shortly to follow through on the matters which are reflected in the enclosed letter.

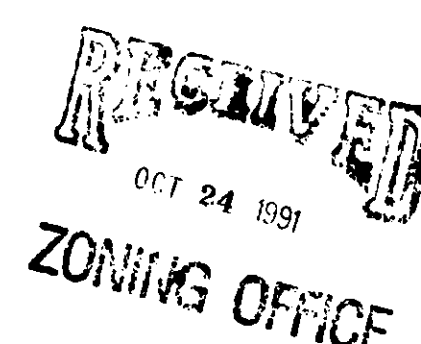
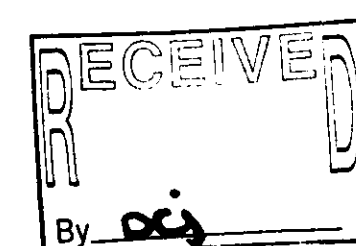
Please let me know if you have any questions.

Sincerely yours,

Robert W. Cannon

0343p/0081/tkm

Enclosure



WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

10480 LITTLE PATENT PARKWAY
COLUMBIA, MARYLAND 21044-3506
(301) 740-8500
WRITER'S DIRECT DIAL NUMBER
(410) 332-8816

1300 332-8800
WASHINGTON AREA 410-7400
FACSIMILES
(301) 332-8862
(301) 332-8863

14 WEST PATRICK STREET
FREDERICK, MARYLAND 21701-5512
(301) 695-9200
FILE NUMBER

February 14, 1992

Hon. Lawrence E. Schmidt
Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 92-206-SAA
Barbara Griffith

Dear Commissioner Schmidt:

Enclosed you will find a Memorandum entitled "Response to Protestant's Memorandum" which we are submitting in this matter.

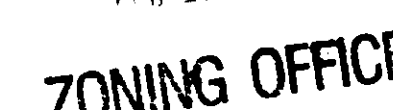
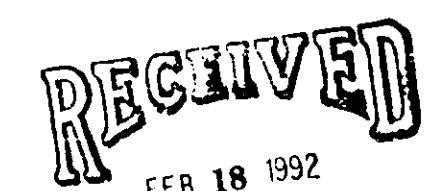
Very truly yours,

Robert E. Cannon

1158p/0081/dm

Enclosure

cc: Bernard A. Penner, Esquire



WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

10480 LITTLE PATENT PARKWAY
COLUMBIA, MARYLAND 21044-3506
(301) 740-8500
WRITER'S DIRECT DIAL NUMBER
(410) 332-8816

1300 332-8800
WASHINGTON AREA 410-7400
FACSIMILES
(301) 332-8862
(301) 332-8863

14 WEST PATRICK STREET
FREDERICK, MARYLAND 21701-5512
(301) 695-9200
FILE NUMBER
9983.38

April 16, 1992

Honorable Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
Old Courthouse, Room 113
Towson, Maryland 21204

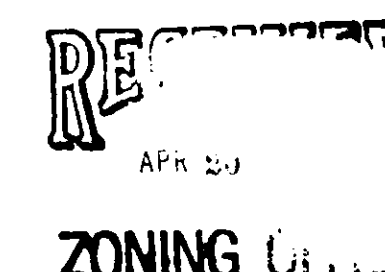
Re: Petition for Special Variance
NEC Harford Road and relocated East Avenue,
9213 Harford Road Phase IV, Parking/Storage Lot
11th Election District, 6th Councilmanic District
Barbara A. Griffith - Petitioner
Case Nos. 92-206-SAA and 92-207A

Dear Commissioner Schmidt:

Please enter an appeal to the County Board of Appeals from the Order of the Zoning Commissioner of Baltimore County, entered by him, in the above-entitled cases on March 31, 1992 insofar as said Order:

1. Denied, under the Petition for Special Variance, the Petitioner's right to an exception from the requirements which govern development as it impacts certain public facilities; and
2. Denied to Petitioner, by holding as MOOT, the Petitioner's request for a variance from Section 409.8.A.2, 409.8.A.5 and 409.8.A.6, as they apply to the proposed Phase IV expansion.

No appeal is entered from so much of said order as grants to the Petitioner, the variance requested pursuant to Sections 408.8.A.2, 409.8.A.5 and 409.8.A.6, as they apply to the body shop parking lot (Case No. 92-207-A) all subject to the restrictions contained in the Order, a copy of which is attached hereto and made a part hereof.



PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Thomas L. Brownell	2200 R. Rd. St. 21226
Joseph B. Bunker	4803 Bayview Ave 21234

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
JERRY MILLER	3013 1st Ave. Balt. MD. 21234
Bernard Penner	9209 Avondale Rd. Balt. MD 21234
Thomas E. Brown	5037 Richmond Ave. Balt. MD 21234
John T. Toole	8703 Edgely Rd. Balt. MD 21234
Robert L. Toole	2435 W. 1st St. Balt. MD 21234
Al Penner	4100 Knappton Rd. 21236
Steve Stankiewicz	5006 First Ave. 21234
Jim Penner	4546 Birch Ave. 21234
John Hemminger	3012 First Ave. 21234
James E. Schaefer	3010 First Ave. 21234
Sam Hasty	3008 First Ave. 21234
Harold Mealy	3006 First Ave. 21234
Charles Standford	3041 Fourth Ave.
Wayne E. Higgins	3027 Second Ave.
Samuel E. Higgins	3017 Second Ave. 21234
Raymond K. Higgins	3015 Second Ave. 21234
Constance K. Higgins	3013 Second Ave. 21234
Mary J. Zand	4225 Belknap Rd. 21237
Conrad V. Zand	3001 First Ave. 21234
Mike H. Hase	9308 Thorne Wood Dr. Balt. MD 21234
Linda Stankiewicz	3014 Third Avenue 21234
Daryl Corona	3106 East Ave. 21234
Harold Conis	3011 First Ave. 21234
Raymond H. Hasty	3005 First Ave. 21234
Raymond E. Hasty	2040 Second Ave. 21234

Mr. William Hackett
Chairman Balt. Co. Bd. of Appeals
Old Ct. House Room 49
400 Washington Ave.
Towson, Md. 21204

October 2, 1992

Re: case# 92-206-SAA
case# 92-207-A

Dear Mr. Hackett,

The above case will be heard on October 8, 1992 at 10:00am. I am scheduled for surgery on my right hand at 10:00am on this date. I was just contacted on Thursday October 1, 1992 by the surgeons office to inform me of the surgical date. Delaying the surgery will cause me to continue suffering with the pain. This appeal hearing is very important to me and the Thorne Wood Community Association of which I am Vice-President.

Mr. Steve Stankiewicz, President of Thorne Wood Community Association will be unable to attend due to a mandatory meeting at his place of employment.

Therefore, Mr. Chairman we respectfully request that the October 8, 1992 appeal hearing be postponed to insure the Thorne Wood Community Association have proper and adequate representation. If a postponement cannot be granted, we then respectfully request that Mr. Stankiewicz and I be permitted to give our testimony at a later date and have it accepted as part of the record of this hearing.

Thank you for your kind consideration of our request.

Jerry Miller

Jerry Miller
3013 First Ave.
Balt., MD 21234
home# 882-4830
wk.# 584-7310

cc: Mr. Robert W. Cannon, Esquire
Mr. Bernard Penner, Esquire

10:11AM 5-10026
RECEIVED
STANLEY J. JOSEPH, ATTORNEY

October 29, 1992

Ms. Linda Lee Kuzmaul
Board of Appeals
400 Washington Avenue
Room 49
Towson, MD 21204

Dear Linda Lee,

I would like to take this opportunity to thank you for your assistance when I attempted to have a postponement of the appeal regarding the Griffith Dealership expansion. I certainly understand why the postponement could not be granted, due to the late hour of my request, but I do sincerely appreciate your assistance and sense of urgency in presenting my request.

Thank you for everything that you did in preparation of the hearing.

Very Best Regards,

Jerry Miller
Vice President
Thorne Wood Community Association
3013 First Avenue
Baltimore, MD 21234
(410) 584-7310

cc: Mr. William Hackett

60-12142-2-10126
RECEIVED
STANLEY J. JOSEPH, ATTORNEY

VARIANCE RE: TRAFFIC--"F" LEVEL

ITEM 1--LETTER TO PLANNING BOARD

Letter from Robert Cannon, attorney for Griffith family dated 4/28/88 to Baltimore County Planning Board. Letter indicated zoning upgrade will substantially increase overall sales and work force resulting in additional employment and expanded tax base. This would result in additional peak hour trips for the employees coming to and from work.

ITEM 2--C.R.G. NOTE 15

There was a note on the plan marked note "15" that stated something to the effect that this proposed expansion would not generate any additional traffic flow. The Griffith representatives agreed to have this note deleted off of the plan; therefore they must agree it would increase traffic flow.

ITEM 3--TRAFFIC CONGESTION

The high level of traffic that flows on Harford and Joppa Roads make for a very dangerous situation with all of the roads intersecting these 2 roads. It has been acknowledged and noted throughout the pre-C.R.G. notes and the C.R.G. March 14, 1991 hearing that the intersection of Joppa and Harford Roads is currently an "F" level intersection.

It has further been noted by current Planning, Zoning and Traffic Engineering departments that this could very possibly result in not allowing permits to be issued until the level of service improves.

We therefore submit the following statements to strengthen the position that we feel permits should not be allowed to be issued.

--The addition of a 187 car storage lot allows for an extensive advertising campaign to induce potential customers to travel to this dealership location because of wide selection and inventory. That is assuming that this

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Griffith Property, Item No. 217 & 218

In reference to the Petitioner's request, staff offers the following comments:

*This project received CRG approval on September 12, 1991 (See File X1-489).

The Office of Planning and Zoning, in accordance with Section 4A02.3 G.I.B. of the Baltimore County Zoning Regulations, has notified the applicant no permits may be issued for this project at this time because no additional trip capacity exists at the intersection of Harford and Joppa Roads. This site is located within a traffic area controlled by a "F" level of service intersection at Harford and Joppa Roads as designated on the Basic Services Maps adopted by the County Council.

The Baltimore County Master Plan identifies the vicinity in which this site is located as a Community Conservation area. Under the heading of Community Conservation on P. 81, the Master Plan offers the following policies to ensure that the "physical and social structure . . . [is] maintained":

- *Control the density, intensity, and quality of new development and redevelopment in older urbanized communities through selective down zoning and revisions to the Development Regulations.
- *Establish land use patterns that do not increase extraneous traffic through residential neighborhoods.
- *Maintain or improve the quality of existing housing stock.
- *Mitigate the adverse impacts arising from conflicting uses.

The area immediately adjacent to the portion of the property subject to display vehicle storage use is comprised of well maintained, single-family detached dwellings. In the opinion of staff, storage of vehicles at this location would be incompatible with the existing residential use of the adjoining properties. Therefore, based upon a review of the information provided and the analysis conducted, we recommend the applicant's request be denied.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn
ITEM 217/TXTROZ

WEINBERG AND GREEN

BALTIMORE (301) 332-8800
WASHINGTON AREA (703) 740-7400

April 28, 1988

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

TELECOPIERS
(301) 332-8882
(301) 332-8883

FILE NUMBER

20238.5

Members of the Baltimore County
Planning Board
Parkville High School
2600 Putty Hill Avenue
Baltimore, Maryland 21234

Re: Sixth Councilmanic District
Issue No. 6-185

Dear Members of the Planning Board:

We represent the Griffith family in connection with the reclassification request for approximately 6 1/2 acres located on the west side of Avondale Road between First Avenue and East Avenue (the "Property"). Approximately half of the land involved in this request is owned by the Griffiths.

The Property is currently zoned RM. The County Council desires to have the Property rezoned to DR-3.5. The zoning staff has recommended that the Property be rezoned to DR-3.5.

The Griffith's property which is involved in this request is vital to their retail automobile operations in the area. Downzoning the Griffith's land would severely hinder their operations.

The Griffith family's car dealerships have been a stable and important business in the area. Their plans to improve the current operations will substantially increase their overall sales and work force, resulting in additional employment and an expanded tax base for Baltimore County. As a result, this will insure the continued economic development and revitalization of this area.

I urge you to retain the existing zoning classification.

Sincerely yours,

Robert W. Cannon

291/ksp

RECEIVED APR 28 1988

COUNTY REVIEW GROUP MEETING SUMMARY

Thursday, September 12, 1991

Griffith Auto Dealership

District 11 C6

COUNTY REVIEW GROUP - THOSE PRESENT

David L. Thomas, Chairman - Dept. of Public Works
Joe Maranto, Co-Chairman - Office of Current Planning

AGENCY REPRESENTATIVES

Larry Pilson - DEPRM
Tracy Gingham - Councilman Howard's Aide
Raheem Famili - Traffic Engineering

DEVELOPER AND/OR REPRESENTATIVES

Clyde F. Hinkel - Bafitis & Assoc., Inc.
Jim R. Abbott - Doug Griffith
Robert W. Cannon - Weinberg & Green

INTERESTED CITIZENS

Please See Attached

Mr. Thomas, Chairman, opened the meeting at 9:15 a.m., introduced the staff, and explained the purpose of the meeting. Mr. Hinkel presented the plan.

Mr. Maranto summarized the staff comments submitted from Fire Department, Developers Engineering Division, Storm Water Management, Department of Environmental Protection and Resource Management (DEPRM), Office of Planning and Zoning, Bureau of Traffic Engineering, Department of Recreation and Parks, Bureau of Land Acquisition. These comments have been made a part of this summary, and a copy was also given to the developer and developer's engineer.

Staff comments to be addressed:

Fire Dept. - Post access lanes as fire lanes.

Planning - Traffic deficient area; no permits, including grading permits, will be issued until traffic level of service improves at intersection of Joppa & Harford Roads. Arrange lighting to minimize interference with existing residences. Recommend no outdoor paving (PA) system.

Zoning - Project is in compliance. Approval recommended.

Traffic Engineering - "F" level intersection; see Planning comments.

DOUG GRIFFITH CHRYSLER - PLYMOUTH
HAS MOVED

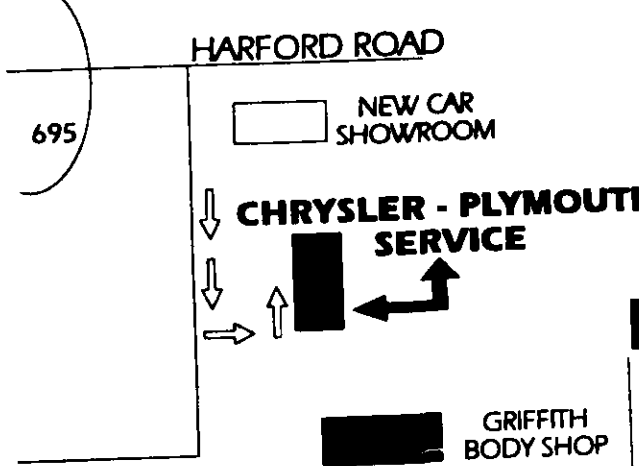
COME IN AND CELEBRATE OUR
GRAND OPENING

DOUG GRIFFITH CHRYSLER-PLYMOUTH believes that
CUSTOMER SATISFACTION is our number 1 job.
We've moved our location to a larger facility to better serve
our valued Customers.
We invite you to visit us at our new facility.

9219 Harford Road
661-3409

NEW EXTENDED EVENING HOURS

SERVICE HOURS
Mon, Wed, Thur, Fri. - 7:30 am - 6:00 pm
TUESDAYS - TIL 8:00 PM
Tuesday Evening By Appointment Only



WE ACCEPT: VISA, DISCOVER

LUBE, OIL & FILTER
CHANGE

INCLUDES: Drain oil and replace with up to 5 quarts of oil. Replace oil filter with GENUINE MOPAR FILTER. Lube Chassis. WITH COUPON Plus Tax & Shop Supplies. DOWNS 12/31/92. Please Present Coupon at time of Oilchange. Not valid in conjunction with other advertised specials or discounts.

CHRYSLER

TWO WHEEL
ALIGNMENT

INCLUDES: Check caster, camber, adjust them if necessary. Inspect front end and adjust if necessary. Additional Labor & Parts Extra. WITH COUPON Plus Tax & Shop Supplies. DOWNS 12/31/92. Please Present Coupon at time of Oilchange. Not valid in conjunction with other advertised specials or discounts.

In Celebration of
our New Location
Choose any of the
4 Specials for just

\$18.95 ea.

CHRYSLER

WHEEL BEARING
&
REAR BRAKE SERVICE

INCLUDES: Check rear brakes & bearings. Clean pads & adjust emergency brake. WITH COUPON Plus Tax & Shop Supplies. DOWNS 12/31/92. Please Present Coupon at time of Oilchange. Not valid in conjunction with other advertised specials or discounts.

CHECK OUT OUR
MODERN STATE
OF THE ART
BODY SHOP.

37 POINT
INSPECTION

Complete 37 point check of your vehicle. You will receive a written report of your vehicle condition. WITH COUPON Plus Tax & Shop Supplies. DOWNS 12/31/92. Please Present Coupon at time of Oilchange. Not valid in conjunction with other advertised specials or discounts.

MOPAR

WHEEL BEARING
&
REAR BRAKE SERVICE

INCLUDES: Check rear brakes & bearings. Clean pads & adjust emergency brake. WITH COUPON Plus Tax & Shop Supplies. DOWNS 12/31/92. Please Present Coupon at time of Oilchange. Not valid in conjunction with other advertised specials or discounts.

CHECK OUT OUR
MODERN STATE
OF THE ART
BODY SHOP.

DATE: October 8, 1992

PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: # 92-206-SAA
92-207-A

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	JERRY MILLER 812-4830 3013 1st Ave. 21234	Thornwood Comm. Assoc. Zoning/Development
✓	JACKIE JONES 615-9453 3422 1st Ave. 21234	Griffith's zoning to allow car storage
✓	DORYL CORONA 665-6124 3106 EAST AVE 21234	THORNWOOD COMM. ASSOC. INAPPROPRIATE ZONING
✓	William S. Dunnet 3017 5th Ave. 662-8007	Resident
✓	Henry & Evelyn A. Smith 3016 Second Ave. 665-7113	Resident
✓	VINNY BAREK 3007 FIRST AVE 661-8439	Resident
✓	Mrs. J. Smith 3007 FIRST AVE 3007 1st Ave. 665-7113	Resident
✓	Linda Marchant 3021 East Ave. 661-1406	Resident
✓	Kathleen Cimini & John Cimini 3134 East Ave. 665-7113	Residents
✓	Mary Ruth Jones 3134 East Ave. 665-7113	Resident
✓	Christopher Namozal 3134 East Ave. 665-7113	Resident
✓	Brian Jones 3134 East Ave. 665-7113	Resident
✓	Melissa Sturges 9136 Avondale Rd 21234	Resident
✓	Tabatha Sturges 9136 Avondale Rd 21234	Resident

THORNWOOD COMMUNITY ASSOCIATION

Resolved: That the position of the Thornwood Community Association as adopted by the Board of Directors on the zoning matter known as: GRIFFITH PROPERTY PHASE IV (car storage lot) is that:

- 1) The car storage lot will adversely affect the property values and the quality of life in our surrounding neighborhoods;
- 2) The parking storage lot will increase traffic on our already over congested streets, especially on East Avenue, Avondale, Second and the intersection of Harford and Joppa Roads.
- 3) The car storage lot will encroach and extend a business use deeply into our residential neighborhood, which borders the property on three sides.
- 4) The "Baltimore County Master Plan" identifies this site as located in a Community Conservation area. Under the heading of "Community Conservation", on page 81, the Master Plan offers the following policies to ensure that the "physical and social structure . . . [is] maintained."
 - Control the density, intensity and quality of new development and redevelopment in older urbanized communities through selective down zoning and revisions to the Development Regulations.
 - Establish land use patterns that DO NOT increase extraneous traffic through residential neighborhoods.
 - Maintain or improve the quality of existing housing stock.

AS WITNESS OUR HANDS AND SEAL THIS 5th DAY OF OCTOBER, 1992.

ATTEST:

JERRY MILLER
ACTING SECRETARY

THORNWOOD COMMUNITY ASSOCIATION

STEVE STANKIEWICZ
PRESIDENT

WES GUCKERT
PRESIDENT

Wes Guckert is a recognized and well respected expert in the field of traffic engineering. Serving as a technical advisor in the areas of traffic impact analysis, traffic signal design, traffic circulation, access studies and transportation planning, Mr. Guckert has played a major role in projects that span the urban and suburban areas of Maryland, Virginia, Pennsylvania, New Jersey, and Delaware. As President of The Traffic Group, Mr. Guckert has managed over 1800 studies for more than 800 clients, including the Townsontown Centre Regional Mall, Bowie New Town Centre, Port America, and the Annapolis Mall Expansion. Prior to founding The Traffic Group, Mr. Guckert served as a traffic engineering consultant, as Project Manager for various public agency projects, he was

JOB HISTORY

1985-Present

President, The Traffic Group, Inc.

1977-1985

Traffic and Transportation Planning Consultant

1972-1977

Maryland State Highway Administration—Traffic Division

Assistant Regional Traffic Engineer

EDUCATIONAL BACKGROUND

Bachelor of Science — University of the State of New York
Civil Engineering Preparation, Johns Hopkins University,
Towson State University, and Essex Community College
Traffic Engineering Courses: Northwestern University, Traffic
Institute, University of Tennessee Transportation Center,
University of Maryland

EXAMPLES OF PLACES WHERE
MR. GUCKERT HAS QUALIFIED AS
AN EXPERT WITNESS

MARYLAND

Planning Board-Allegany County
Zoning Hearing Examiner, Board of Appeals and Circuit
Court-Anne Arundel County
Planning Commission and City Council-City of Annapolis
City Council and Planning Commission-Baltimore
Board of Appeals, Circuit Court, Planning Board, Zoning
Hearing Examiner-Baltimore County
Planning Board, Town Commissioners-Town of Bel Air
Planning Board and Board of Appeals-Carroll County
Planning Board and Board of Appeals-Cecil County
Planning Commission-City of Frederick
Planning Board and County Commissioners-Fredrick County
Zoning Hearing Examiner-Harford County
Zoning Hearing Examiner-Montgomery County

NEW JERSEY

Holmdel Township Planning Board

VIRGINIA

Arlington County Board of Supervisors
Loudoun County Planning Board
Prince William County Planning Board and Board of
Supervisors

PENNSYLVANIA

West Whiteland Township Planning Board, Town Council,
City of Scanton Board of Appeals

responsible for the Maryland 210 Bus Stop Study, the Capital Centre Access Study and the University of Maryland Access Study. In addition, he directed the design and implementation of traffic access systems for regional projects such as National Business Park, Presidential Corporate Center, Largo Town Center, the Milestone Property, Wheaton Plaza, and Salisbury Centre. Early in his career, Mr. Guckert served for 5 years with the Maryland SHA Traffic Division.

AFFILIATIONS

Institute of Transportation Engineers (I.T.E.)
Urban Land Institute (U.L.I.)
American Planning Association (A.P.A.)
Transportation Research Board (T.R.B.)
I.T.E. PROFESSIONAL
COMMITTEES

PUBLICATIONS

I.T.E., "The Evolution of Adequate Public Facilities and Their Effectiveness as Growth Management Tools in Maryland" (Co-Author)

Board of Appeals-Montgomery County
Board of Appeals-Washington County
M.N.C.P.P. (Planning Commission-Montgomery County
County Council, Zoning Hearing-Prince George's County
M.N.C.P.P. (Planning Commission-Prince George's County
Planning Board-St. Mary's County

NEW JERSEY

Holmdel Township Planning Board

VIRGINIA

Arlington County Board of Supervisors
Loudoun County Planning Board
Prince William County Planning Board and Board of
Supervisors

PENNSYLVANIA

West Whiteland Township Planning Board, Town Council,
City of Scanton Board of Appeals

The Traffic Group, Inc., Suite 600 40 W. Chesapeake Avenue Towson, Maryland 21204 (410) 581-8405 Fax (410) 321-8458

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 29, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Griffith Property, Item No. 217 & 218

In reference to the Petitioner's request, staff offers the following comments:

*This project received CRG approval on September 12, 1991 (See File XI-489).

The Office of Planning and Zoning, in accordance with Section 4A02.3.G.1.B. of the Baltimore County Zoning Regulations, has notified the applicant no permits may be issued for this project at this time because no additional trip capacity exists at the intersection of Harford and Joppa Roads. This site is located within a traffic area controlled by a "F" level of service intersection at Harford and Joppa Roads as designated on the Basic Services Maps adopted by the County Council.

The Baltimore County Master Plan identifies the vicinity in which this site is located as a Community Conservation area.

Under the heading of Community Conservation on P. 81, the Master Plan offers the following policies to ensure that the "physical and social structure . . . [is] maintained":

*Control the density, intensity, and quality of new development and redevelopment in older urbanized communities through selective down zoning and revisions to the Development Regulations.

*Establish land use patterns that do not increase extraneous traffic through residential neighborhoods.

*Maintain or improve the quality of existing housing stock.

*Mitigate the adverse impacts arising from conflicting uses.

The area immediately adjacent to the portion of the property subject to display vehicle storage use is comprised of well maintained, single-family detached dwellings. In the opinion of staff, storage of vehicles at this location would be incompatible with the existing residential use of the adjoining properties. Therefore, based upon a review of the information provided and the analysis conducted, we recommend the applicant's request be denied.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn
ITEM217/TXPROZ

Protestant No 2

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELECOPIERS
(301) 332-8800
(301) 332-8801

April 28, 1988

FILE NUMBER
20238.5

Members of the Baltimore County
Planning Board
Parkville High School
2600 Putty Hill Avenue
Baltimore, Maryland 21234

Re: Sixth Councilmanic District
Issue No. 6-186

Dear Members of the Planning Board:

We represent the Griffith family in connection with the reclassification request for approximately 6 1/2 acres located on the west side of Avondale Road between First Avenue and East Avenue (the "Property"). Approximately half of the land involved in this request is owned by the Griffiths.

The Property is currently zoned BM. The County Council desires to have the Property rezoned to DR-3.5. The zoning staff has recommended that the Property be rezoned to DR-5.5.

The Griffith's property which is involved in this request is vital to their retail automobile operations in the area. Downzoning the Griffith's land would severely hinder their operations.

The Griffith family's car dealerships have been a stable and important business in the area. Their plans to improve the current operations will substantially increase their overall sales and work force, resulting in additional employment and an expanded tax base for Baltimore County. As a result, this will insure the continued economic development and revitalization of this area.

I urge you to retain the existing zoning classification.

Sincerely yours

Robert W. Cannon

291/ksp

Protestant No 3

January 24, 1992

Zoning Department of Baltimore County

Dear Mr. Schmidt and Mr. Kotroco,

This letter will serve as authorization for Jerry Miller to speak and act on behalf of Woodcroft Community Association.

Sincerely,

Tom Quinn

President, Woodcroft Community Association

January 24, 1992

Zoning Department of Baltimore County

Dear Mr. Schmidt and Mr. Kotroco,

This letter will serve as authorization for Jerry Miller to speak and act on behalf of Thornewood Community Association.

Sincerely,

Marilyn Ryan

President, Thornewood Community Association

WES GUCKERT PRESIDENT

Wes Guckert is a recognized and well respected expert in the field of traffic engineering. Serving as a technical advisor in the areas of traffic impact analysis, traffic signal design, traffic circulation, access studies and transportation planning, Mr. Guckert has played a major role in projects that span the urban and suburban areas of Maryland, Virginia, Pennsylvania, New Jersey and Delaware. As President of The Traffic Group, Mr. Guckert has managed over 1300 studies for more than 800 clients, including the Townsown Centre Mall, Bowie New Town Centre and Port America.

Prior to founding The Traffic Group, Mr. Guckert served as a traffic engineering consultant. As Project Manager for various public agency projects, he was responsible for the Maryland 210 Bus Stop Study,

JOB HISTORY

1977-present

Consultant

1972 - 1977

Maryland State Highway Administration-Traffic Division

Assistant Regional Traffic Engineer

EDUCATIONAL BACKGROUND

Civil Engineering Preparation: Johns Hopkins University,
Towson State University, and Essex Community College
Traffic Engineering Courses: Northwestern University, Traffic
Institute, University of Tennessee, Transportation Center,
University of Maryland

EXAMPLES OF PLACES WHERE MR. GUCKERT HAS QUALIFIED AS AN EXPERT WITNESS

Maryland

Planning Board, Allegany County
Zoning Hearing Examiner, Board of Appeals and Circuit Court, Anne Arundel County
Planning Commission and City Council, City of Annapolis
City Council and Planning Commission, Baltimore
Board of Appeals, Circuit Court, Planning Board, Zoning Hearing Examiner, Baltimore County
Planning Board, Town Commissioners, Town of Bel Air
Planning Board and Board of Appeals, Carroll County
Planning Board and Board of Appeals, Charles County
Planning Commission, City of Frederick
Zoning Hearing Examiner, Harford County
Planning Board and Zoning Board, Howard County
Zoning Hearing Examiner, Montgomery County
Board of Appeals, Montgomery County

the Capital Centre Access Study and the University of Maryland Access Study. In addition, he directed the design and implementation of traffic access systems for regional projects such as National Business Park, Presidential Corporate Center, Largo Town Center, the Milestone Property, Wheaton Plaza and Salisbury Centre. Early in his career, Mr. Guckert served for 5 years with the Maryland SHA Traffic Division.

A renowned expert in the field, Mr. Guckert is often asked to serve as an independent expert witness, testifying before county and municipal boards and district courts in Maryland, Virginia and Pennsylvania on traffic engineering and transportation planning issues.

AFFILIATIONS

Institute of Transportation Engineers (I.T.E.)
Urban Land Institute (U.L.I.)
American Planning Association (A.P.A.)
Transportation Research Board (T.R.B.)

I.T.E. PROFESSIONAL COMMITTEES

Traffic Considerations for Special Events
Parking Facilities for Industrial Plants
Internal Transportation Systems for Major Activity Centers

Park and Planning Commission, Montgomery County
County Council, Zoning Hearing Examiner, Prince Georges County
Park and Planning Commission, Prince Georges County
Planning Board, St. Mary's County

New Jersey

Holmdel Township Planning Board

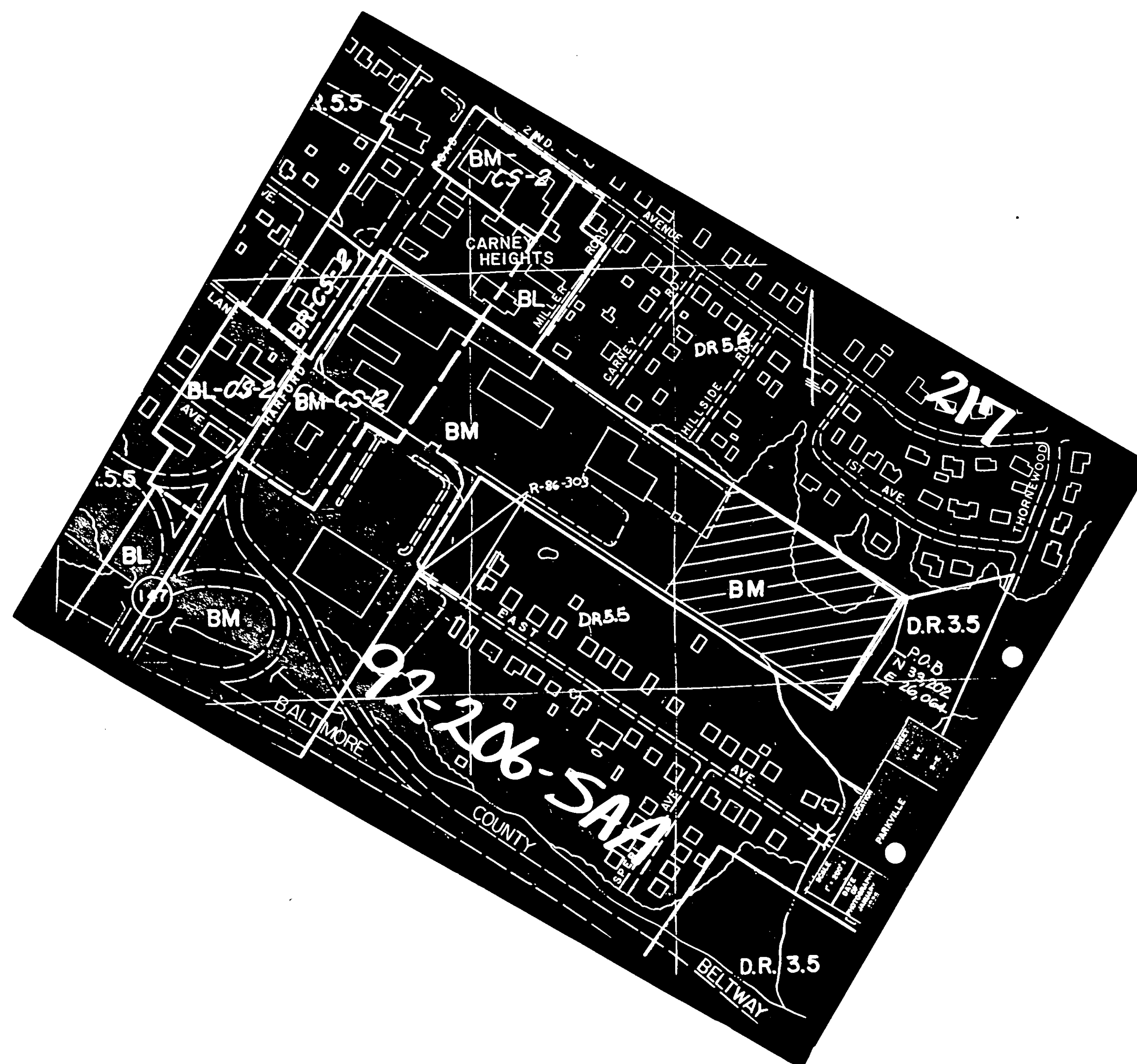
Virginia

Arlington County, Board of Supervisors
Loudoun County Planning Board
Prince William County Planning Board and Board of Supervisors

Pennsylvania

West Whiteland Township Planning Board, Town Council
City of Scranton Board of Appeals

The Traffic Group, Inc. Suite 603 40 W. Chesapeake Avenue Towson, Maryland 21204 301-583-8435 Fax 301-321-4458





BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

*Protestants
& No
1*

SCALE
1" = 200' ±
DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
PARKVILLE

SHEET
N.E.
9-E

the Zoning Commissioner's grant of the special variance requested by the Petitioner, as required by § 4A02.4.F.1.

In conclusion, we respectfully request that the Board of Appeals reverse the Order of the Zoning Commissioner dated March 31, 1992 to the limited extent that it denied the Special Variance and we request that the Board of Appeals grant the Petition for Special Variance from §4A02.4.D of the Growth Management Regulations for all of the foregoing reasons.

Robert W. Cannon
Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Petitioner

BARBARA GRIFFITH * HEARING BEFORE THE
Petitioner and Appellant * COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
CASE NO. 92-206-SAA * OCTOBER 8, 1992
* * * * *

PROTESTANTS' MEMORANDUM

In response to Petitioner Statement of Facts and Law, Protestants submit the following memorandum:

Introduction

Protestants accept Petitioner's introductory statement of the case noting however that on October 15, 1992, the Baltimore County Council re-zoned the subject property to allow only residential and not commercial or business use. Thus, the new zoning map does not accommodate the proposed vehicle storage use of the property sought in the Petitioner's request for special variance.

Statement of Facts and Law

Section 4A02.4.D of the Growth Management Regulations of Article 4A of the Baltimore County Zoning Regulations states:

97-8 AM 02 10026
COMM-1000

The transportation standards and maps are intended to regulate non-industrial development where it has been determined that the capacity of arterial and arterial collector intersections is less than the capacity necessary to accommodate traffic both from established uses and from uses likely to be built pursuant to this article.

There is no dispute that the proposed vehicle storage lot is squarely within the traffic shed which is served by the Harford Road/Joppa Road intersection. This intersection is currently graded at an F level-of-service because it cannot support the existing traffic needs of the area. (Commissioner Schmidt's Findings of Fact and Conclusions of Law, page 8). Consequently, building permits for the proposed vehicle storage lot are being withheld until the level of traffic service improves.

Petitioner, the Griffith Car Dealership, argues that it is entitled to a special variance because the formula for calculating the maximum level of non-industrial development uses the phrase "building or part of a building." The dealership contends that because the vehicle storage lot is not a "building or part of a building" the district standard is not relevant to the proposed use.

Griffith's semantic argument tries to elevate the language of a technical formula into a substantive loophole. The formulas here are merely assumptions from which the Department of Planning and Zoning calculates the amount of reserve capacity available

for a given development. The community maintains that the proposed storage lot is an increase in the retail floor space available to the car dealership and that the lot, a part of the dealership's buildings, will constitute an expansion of the retail business. Thus, the assumptions contained in Section 4A02.4.D.3.a.3 can be applied to this proposed development without stretching the interpretation or applicability of the statute.

Petitioner's argument attempts to distract the Board's attention from the issue of traffic congestion. The district standard in this case pertains to traffic, and it is relevant to any proposed development which will increase traffic. Only developments which will not increase traffic in the district would qualify for special variance under the exemption cited by Petitioner.

The real question therefore is the impact of this project on local traffic. At the present time there is no reserve capacity. In arguing that its storage lot is exempt, Petitioner completely ignores the statutory language which states that the Zoning Commissioner may grant a petition for special variance "only to an extent that will not violate that provision's purpose," Section 4A02.4.F.1.

Commissioner Schmidt correctly concluded:

"Thus, it follows that any additions to traffic, no matter how slight, nor minor, should not be permitted." (Commissioner's Findings, page 8).

Petitioner's assertion that this lot will not increase traffic is specious and self-serving. By their own admission, the lot will be used as a depot for other Griffith dealerships entailing the use of car carriers across Harford Road to bring the vehicles onto and off of the lot. The community witnesses testified that with every expansion of the dealership the amount of traffic from the dealership has increased. Furthermore, Protestants suggest that this vehicle storage lot will store vehicles which will be purchased from the dealership and therefore be test driven from the dealership, and from time to time, returned to the dealership for servicing and other routine maintenance.

Commissioner Schmidt also recognized that the vehicle storage lot will be an expansion of the dealership's retail business. It follows that the volume of retail sales will increase which will bring with it increased vehicular traffic. (Commissioner Findings, page 9).

Granting a special variance under these circumstances would create an exception which swallows the rule. Consider the dangerous precedent created by elevating a phrase in a calculation's assumption to the level of a controlling loop hole within the Growth Management Statute. Car dealerships, parking lots, drive in theatres, open-air markets, or any other commercial enterprise which could attract car driving customers without requiring a "structure enclosed within exterior walls" (Petitioner's memo, page 3) would be claiming entitlement to special variances from the traffic map standards.

Conclusion

Protestants respectfully maintain that Petitioners are not entitled to a special variance under Section 4A02.4.F.1. We respectfully request that the Board of Appeals affirm the order of the Zoning Commissioner dated March 31, 1992 and request that the Board of Appeals deny the Petition for Special Variance from Section 4A02.4.D of the Growth Management Regulations.

Respectfully submitted,
Bernard A. Penner
Bernard A. Penner, Esquire
9209 Avondale Road
Baltimore, Maryland 21234
Resident on Behalf of Protestant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of October, 1992, a copy of the foregoing Protestants' Memorandum was mailed first class mail, postage prepaid, to Robert W. Cannon, Esquire, Weinberg & Green, 100 S. Charles Street, Baltimore, Maryland 21201.

Bernard A. Penner
Bernard A. Penner

Case Number: * HEARING BEFORE
92-206-SAA * THE ZONING COMMISSIONER
Barbara Griffith * FOR BALITMORE COUNTY
PETITIONER * January 27, 1992
* * * * *

INTRODUCTION

Barbara Griffith owns property in Baltimore County which is intended to be used as new car storage for the existing auto dealer activity on the property. The property is zoned to accommodate this purpose. The property is also in proximity to the failing intersection of Harford and Joppa Roads. County Review Group ("CRG") hearings for the development of a vehicle storage lot on this property were held on March 14, 1991 and on September 12, 1991. In connection with the review, the Office of Planning and Zoning expressed uncertainty as to the applicability of §4A02.4 of the Baltimore County Zoning Regulations, the Basic Services Mapping standard, to the proposed development. The plan was approved by the CRG on September 12, 1991.

STATEMENT OF FACTS AND LAW PRESENTED

The Growth Management Regulations contained in Article 4A of the Baltimore County Zoning Regulations state that the Director of the Office of Planning and Zoning must issue a Reserve Capacity Use Certificate in accordance with

§4A02 of the Baltimore County Zoning Regulations before final subdivision approval may be granted or a building permit may be issued. Section 4A02.4.D of Article 4A, Transportation, lists a formula to be used for the determination of reserve capacity. That formula includes the projected number of daily peak-hour vehicle trips to be generated by any proposed non-industrial development.

Subsection 3, Maximum Level of Non-Industrial Development, states that the level of the proposed additional non-industrial development proposed may not exceed that which would generate the number of daily peak-hour vehicle trips equal to the reserve capacity of that mapped area. The number of daily peak-hour vehicle trips a development will generate is determined based on averages for the following enumerated non-industrial developments: (i) dwelling units to be used for the elderly, (ii) dwelling units to be used other than for the elderly, (iii) buildings to be devoted to retail use, (iv) buildings to be devoted to office use and (v) buildings to be devoted to uses other than retail or office uses. Thus, there are estimated peak-hour vehicle trips for four (4) specific types of non-industrial developments and a catch-all for "buildings" which do not fit into one of the four specific categories covered under the Section. The estimated number of daily peak-hour vehicle trips for each type of non-industrial development covered under this section is an essential part of the formula required to determine reserve capacity.

The development of a vehicle storage lot by the Griffith's on this property will not result in a dwelling unit or a building of any type. See Hurst v. V&M of Virginia, 293 Md. 575, 580-581; Brown v. State, 39 Md. App. 497, 501. A building is defined by the Baltimore County Zoning Regulations as "a structure enclosed within exterior walls or fire walls for the shelter, support, or enclosure of persons, animals, or property of any kind." While the vehicle storage lot will be enclosed by a fence, a fence is not a wall within the meaning of the zoning regulations, and a fenced lot does not create a building under Maryland law. Himmel v. Hendler, 161 Md. 181, 189.

The statutory determination for calculating additional vehicle trips, which is set forth in Section 4A02.4.D.3, does not apply to the Petitioner's proposed development. The standard used in the formula requires a building or part of a building devoted to dwelling, retail, office or other uses, presumably because the legislature concluded that any other type of "development" permitted by the zoning, which did not fall within these specific categories, would not generate peak hour trips. Indeed, the Petitioner's proposed development will not adversely impact the failing intersection at Joppa and Harford Roads because no peak hour trips will be generated by a vehicle storage lot.

The zoning ordinance, being in derogation of the common law, should be strictly construed to permit the property owner to use her property for a given activity.

unless it is clearly excluded. Landay v. Zoning Appeals Board, 173 Md. 460, 466; Gino's v. Baltimore City, 250 Md. 621, 642-643. Consequently, the term "non-industrial development" as used to determine additional vehicle trips and thus reserve capacity, must be limited to the types of development clearly defined in the regulations. If a Reserve Capacity Use Certificate must be issued before Petitioner can use her property as a vehicle storage lot, the Zoning Commissioner and the Office of Planning and Zoning, rather than the legislature, will be expanding the applicability of Section 4A02.4.D.

CONCLUSION

Section 4A02.4.F.1 specifically states that the Zoning Commissioner may, after a public hearing, grant a petition for a special variance from a provision of the subsection pursuant to a finding that the standard is not relevant to the development proposal. Thus, the legislature acknowledged in the regulations themselves that there would be situations where the standards provided were not applicable. Clearly the standards given in this subsection are not relevant to the Petitioner's development proposal. In addition, no prior application would be adversely affected by the Zoning Commissioner's grant of the special variance requested by the Petitioner, as required by § 4A02.4.F.1.

In conclusion, we respectfully request that the Zoning Commissioner grant our Petition for Special Variance from §4A02.4.D of the Growth Management Regulations for all of the foregoing reasons.

Robert M. Cannon
Robert M. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Petitioner

BEFORE THE ZONING * IN RE PETITION
COMMISSIONER OF * FOR ZONING VARIANCE
BALTIMORE COUNTY * NO. 218 - Hearing Date
January 27, 1992

PROTESTANTS STATEMENT IN OPPOSITION TO PETITION FOR VARIANCE

The residents of the communities Thornwood and Woodcroft protest the above captioned Petition for Variance for the following reasons:

1) Petitioners have not shown that they will suffer an unreasonable or unnecessary hardship if the variance is not granted. Protestants contest petitioners assertion that the requested variances are in "strict harmony with the spirit and intent of the zoning regulation and requested variances would not result in substantial injury to the public health, safety or general welfare."

2) Protestants note that in the original plan for the proposed parking lot submitted to the County Review Group, Petitioners claimed that the lot would be a durable and dustless surface. Now, subsequent to CRG approval, Petitioners seek a variance to allow them to use a different surface for the proposed parking lot. Furthermore, Petitioners seek to remove an existing violation from their existing facility by seeking the present variance. Protestants assert that Petitioners are using the variance process to create an illusory appearance of compliance with the Baltimore County Zoning Ordinance.

THEREFORE PROTESTANTS RESPECTFULLY REQUEST THAT THE ABOVE CAPTIONED PETITION FOR VARIANCE BE DENIED.

Respectfully submitted,
Bernard A. Penner
Bernard A. Penner
Resident, Avondale Road

CASE NO: 92-206-SAA * HEARING BEFORE
BARBARA GRIFFITH, * ZONING COMMISSIONER
PETITIONER * FOR BALTIMORE COUNTY
January 27, 1992

PROTESTANT'S MEMORANDUM

In response to Petitioner's Statement of Facts and Law,
Protestants submit the following Statement of Facts and Law:

1) Contrary to Petitioner's assertion that the Office of Planning and Zoning has taken no position, Protestants believe the Office of Planning and Zoning has taken the position that Section 4A02.4.D of Baltimore County Zoning Regulations, does apply to the proposed development and therefore the Office of Planning and Zoning opposes Petitioner's Request for Special Variance. (See OPZ staff comments dated 11-29-91)

2) Petitioner asserts that the proposed development will not adversely impact the failing intersection at Harford and Joppa Roads because no peak hour trips will be generated. Petitioner did not present any evidence to support this assertion. To the contrary, Petitioner's witnesses acknowledged that cars would be sold from the proposed lot. They also acknowledged that cars from the lot could be test driven not only on Harford Road but on the side and

adjoining streets. Petitioner's traffic expert did not make any calculations, or projections, regarding additional vehicle trips at peak hours generated by these test drives, or, additional trips by new customers or new employees generated by the proposed expansion of the Griffith's retail space. Therefore, Petitioners assertion that no traffic would be generated by this lot is unsupported by any evidence.

3) Petitioner cites three cases for the proposition that a "vehicle storage lot" is not a "building" as envisioned by the statute.

a) Hurst v. V & M of Virginia, Inc. 293 Md. 575 (1982) is a mechanic's lien case. The issue in that case was whether a leasehold interest in a shopping mall could be construed as a "building" so that a contractor could place a mechanic's lien against the leasehold which was improved. The Court ultimately decided that the word "building" as used in the mechanic's lien statute did not apply to a leasehold interest. However, the Court noted that the cardinal rule of statutory construction is to ascertain and carry out the real legislative intent, Id. at 578. Quoting the Court of Special Appeals on the same issue the Court of Appeals wrote:

If the General Assembly intended to include a part of a building in the lien law, the words, building or any part thereof could

have been employed. They were not. (emphasis added)

In Hurst the statute did not use the language building or part of a building. The Court therefore narrowly construed the word building. In the present case the legislature expressly added the language building or part of a building. The Hurst Court also went through a careful analysis of how the word "building" could be construed in various different circumstances. They quoted Blacks Law Dictionary defining building as a:

structure designed for habitation, shelter, storage, trade, manufacturing, religion, business, education and the like. A structure or edifice enclosing a space within its walls, and usually, but not necessarily, covered with a roof. (emphasis added) citations omitted, Id. at 581

b) Petitioners also cite Brown v. State 39 Md. App. 497 (1978). Brown is a criminal case deciding whether an abandoned structure unfit for habitation constitutes a "building" within the meaning of the arson statute. In that case, the Court of Special Appeals adopted a common sense approach to the problem of definition and held that an abandoned structure was a building even though it was not capable of habitation at the time of burning.

c) Finally Petitioner relies on Himmel v. Hendler 161 Md. 181 (1931) to assert that a fenced lot does not create a building under Maryland law (Petitioner's Statement

p. 3). In that case, the Court of Appeals was called upon to interpret the language of a restrictive covenant which forbade any building on an open space between two lots.

Petitioner apparently contends that the following dicta from Himmel puts their proposed vehicle storage lot outside the scope of the Baltimore County's Growth Management Plan:

It is true that commonly we speak of fences as being "built" but it cannot be said that, when a fence is completed, it is a "building" in the common acceptance of that word. 161 Md. at 189.

In fact, the holding in Himmel was limited to the specific fence proposed in that case. The Court wrote:

What we have decided is that a fence in the position proposed does not violate the restrictions contained in the covenant. We are not to be understood as determining that an extension of such a fence, or any fence at all, on the dividing line of the property, would not be in violation. Id. at 190.

In any event, Himmel says nothing about whether a car dealership's fenced car lot is a part of a building.

Protestants assert that if the legislature had intended that the formula for calculating peak hour trips only apply to buildings, they would have omitted the language or part of a building. Furthermore, an examination of the specific section indicates that the legislature sought to address circumstances where the

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"gross retail floor area" of an establishment is increased. See §4A02.4.D3a3. There is no dispute in the present case that the proposed vehicle storage lot will hold the Griffith dealership's inventory. Therefore, the proposed vehicle storage lot is in fact a retail floor area surrounded by a fence designed for the storage and protection of merchandise. The proposed vehicle storage lot will be a part of the buildings which comprise the Griffith car dealership on Harford Road.

In Hurst, 293 Md. at 581-2 the Court referred to 12 CJS Building at 721-2 (1980) which cites Zoning Appeals Board v. McKinney 174 Md. 551, 566-67 (1938) for the proposition that the meaning of the word "building" depends upon the peculiar facts and circumstances of each particular case, the intent of the parties, and the aim of the statute. The Court quoted 12 CJS at 722:

What is a building must always be a question of degree; but ordinarily the word refers to a structure inclosing a space within walls and roof. Ordinarily the word refers to the entire building and if a part only is intended qualifying words are used. (emphasis added)

- 4) Protestants assert that the Growth Management Article, Section 4A02.4.D is specifically concerned with traffic. The proposed Phase IV development involves a vehicle storage

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lot. At very least, a hundred and eighty-seven additional vehicles will be brought into the area. This proposed development is not a swimming pool, topiary garden, or tennis court which arguably would not generate additional traffic. It is a vehicle storage lot which will generate traffic by attracting additional customers to the dealership who will take additional "test drives" through the already congested neighborhood.

Protestants urge the Commissioner to consider the dangerous precedent set by an overly restrictive reading of the language part of a building. Other automobile dealerships may be inspired to increase the size of their parking lot inventory space if the Growth Management Article does not apply to such expansion. Similarly, a "drive-in" movie theater or "flea market" can be operated on a parking lot, as well as other retail activities which would increase the amount of traffic without involving a structure under roof.

The legislature obviously recognized circumstances where automobiles could be brought into an area for a use which did not entail four walls enclosing a space covered by a roof, and therefore included part of a building in the Growth Management article's coverage. Conversely, if the statute is to be interpreted as narrowly as Petitioner suggests, then the part of a building language would be mere surplusage. Absent a clear indication to the contrary, no

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phrase should be read as meaningless. Hurst v. V & M of Virginia 293 Md. at 578.

CONCLUSION

For the foregoing reasons, Protestants respectfully requests that the Zoning Commissioner deny Petitioner's Request for Special Variance and hold that Section 4A02.4.D applies to the proposed development.

Respectfully submitted,

Bernard A. Penner
Bernard A. Penner
Resident Avondale Road

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February 1992, a copy of the foregoing Protestant's Memorandum was mailed, postage paid, to Robert W. Cannon, Esquire, Weinberg & Green, 100 S. Charles Street, Baltimore, Maryland 21201, attorney for the Petitioner.

Bernard A. Penner
Bernard A. Penner

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0419:2/14/92
CBV45:68861

CASE NO.: 92-206-SAA * HEARING BEFORE THE
BARBARA GRIFFITH, * ZONING COMMISSIONER
PETITIONER * FOR BALTIMORE COUNTY
* HELD: January 27, 1992

RESPONSE TO PROTESTANT'S MEMORANDUM

Petitioner is submitting this Response to Protestant's Memorandum in order to refute (1) Protestant's statement of alleged facts in connection with the proposed development of Petitioner's lot as a new car storage lot; and (2) Protestant's analysis of Section 4A02.4.D of Article 4A of the Baltimore County Zoning Regulations.

1. Protestant makes unsupported conclusions and inaccurate statements of fact in ¶ 2 of Protestant's Memorandum. Protestant states that cars, according to one of Petitioner's witnesses, would be sold from the proposed lot. However, no new car sales will take place, or likely ever take place on new car dealership storage lots. Many of the cars that will be stored in the vehicle storage lot have, in the past, and are now, being stored in a vehicle storage lot off-site. These cars are currently driven to the Griffith auto dealership as the inventory on the retail space is depleted.

Protestant cites no support for his bold projections that new customers and additional test drives will be generated by the additional storage space on the lot. There is no evidence whatsoever that more customers are drawn to a dealership or take additional test drives by virtue of a larger inventory of new cars

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being stored on the property. What is not speculative and is indeed inaccurate, is Protestant's statement that new employees will be hired if a vehicle storage lot is permitted on the property. The volume of cars handled by and sold out of the dealership on the property is not anticipated to increase due to an on-site vehicle storage lot. No new employees will be hired.

2. Protestant has twisted the language of Subsection 3 of Section 4A02.4.D beyond its common sense meaning and the obvious legislative intent of the words "part of a building." Subparagraph 3 states:

"Every 1,000 square feet of gross floor area of a building or part of a building devoted principally to retail use shall be considered to result in the generation of 14.70 peak-hour vehicle trips daily; ..."

The use of the term "part of a building" in this section clearly delineates that this peak-hour trip calculation applies to every 1000 square feet of building area devoted principally to retail use, whether the entire building or only part of the building is devoted principally to retail use. This reading of the statute, contrary to Protestant's suggestion on Page 6 of Protestant's Memorandum, does not render the term "part of a building" surplusage. Absent such language, the argument could be made that if the entire building was not devoted principally to one of the uses specified, (in the above subsection, retail), then the legislature did not intend it to be included in calculating peak-hour trips. Clearly, the legislature meant to include all buildings, and was simply distinguishing the different uses for

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which a building or part of a building could be put, since different uses generate different numbers of peak-hour vehicle trips.

Thus, Petitioner's interpretation of the statute requiring a building or part of a building, and Petitioner's analysis that a vehicle storage lot is not a building or part of a building, does not render any of the language of the statute surplusage. Protestant has tried to manipulate the term "part of a building" to suggest that if either (i) some of the elements of a building exist or (ii) the proposed development is somehow connected to an existing building, even if that existing building is not subject to the current review process, the County can require peak-hour trip calculations.

Protestant's argument seems based on a belief that because the vehicle storage lot would be on the same property with the Griffith's auto dealership building, it is "part of a building" and as such it is within the purview of the statute. If the legislature had intended such a reading of the statute, it could have easily said "Every 1000 square feet of gross floor area of a building or any improvement in any way connected to a building devoted principally to retail use...". To read the statute as Protestant suggests is to give the unambiguous terms unnatural meanings.

Once again, Petitioner asserts that if the legislature intended to encompass Protestant's far-reaching analysis of the law, the legislature should rewrite the law to say just that. Protestant suggests that a dangerous precedent which would be set

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if Protestant's imaginative reading of the statute is not accepted. Petitioner urges rejection of Protestant's arguments. Petitioner responds to Protestant's concerns by stating that, if indeed there is a loophole in the language of the statute, it is up to the legislature, not the Commissioner, to rewrite the statute to address the situation.

Petitioner concludes, however, that the statute is clear on its face, and the standards set forth in the statute are not applicable to the vehicle storage lot. For the foregoing reasons, Petitioner respectfully requests that the Zoning Commissioner approve Petitioner's request for Special Variance as Section 4A02.4.D does not apply to the proposed vehicle storage lot.

Respectfully submitted,

Robert W. Cannon
Robert W. Cannon, Esquire
Weinberg & Green
100 South Charles Street
Baltimore, Maryland 21201
(410) 332-8816
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of February, 1992, a copy of the foregoing Response to Protestant's Memorandum was mailed by first class mail, postage prepaid, to Bernard A. Penner, Resident Avondale Road, 9209 Avondale Road, Baltimore, Maryland 21234.

Robert W. Cannon
Robert W. Cannon

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